

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Kaitlyn Porter,
Plaintiff,
vs.
Two Guys and a Calculator
LLC, et al.,
Defendants.

Case No.
2:21-cv-04077

DEPOSITION OF KAITLYN PORTER

Tuesday, April 26, 2022
10:08 a.m.
The Spitz Law Firm
1103 Schrock Road
Suite 307
Columbus, Ohio 43229

MARILYN K. MARTIN, RPR

REGISTERED PROFESSIONAL REPORTER

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8 On behalf of the Plaintiff.

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15 On behalf of the Defendants.

16 - - -

17 ALSO PRESENT:

18 Joy Caudill

19 - - -

1 TUESDAY MORNING SESSION
2 April 26, 2022
3 10:08 a.m.

4 - - -

5 STIPULATIONS

6 - - -

7 It is stipulated by and between counsel
8 for the respective parties herein that this
9 deposition of KAITLYN PORTER, a Plaintiff herein,
10 called by the Defendants under the statute, may be
11 taken at this time and reduced to writing in
12 stenotypy by the Notary, whose notes may thereafter
13 be transcribed out of the presence of the witness;
14 and that proof of the official character and
15 qualifications of the Notary is waived.

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I N D E X

- - -

WITNESS PAGE

KAITLYN PORTER

Cross-Examination 06
(By Mr. Hershberger)

- - -

EXHIBITS MARKED

Defendant's Exhibit A 108
(Notice)

Defendant's Exhibit B 112
(Charge of Discrimination)

Defendant's Exhibit C XX
(Not Used)

Defendant's Exhibit D 134
(Text Messages)

Defendant's Exhibit E XX
(Not Used)

Defendant's Exhibit F 51
(PRP Employment Application)

Defendant's Exhibit G 55
(Document Entitled "Application
for Employment")

Defendant's Exhibit H 61
(Personnel Action Form)

Defendant's Exhibit I 66
(Not Used)

Defendant's Exhibit I-2 68
(Anchor Security and Logistics Employment
Application)

| | | |
|---|--|----|
| 1 | Defendant's Exhibit J | 88 |
| 2 | (Gap Documents) | |
| 3 | Defendant's Exhibit K | 94 |
| 4 | (Burger King Documents) | |
| 5 | Defendant's Exhibit L | 95 |
| 6 | (Liberty Tax Application for Employment) | |

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P R O C E E D I N G S

- - -

KAITLYN PORTER,

being by me first duly sworn, as hereinafter
certified, testifies and says as follows:

CROSS-EXAMINATION

BY MR. HERSHBERGER:

Q. Ma'am, for the benefit of the record, can
you state your name.

A. Kaitlyn Porter.

Q. I'm Eric Hershberger, and I represent the
defendants in a lawsuit that you've brought. We're
here today for your deposition. I don't suppose
you've ever had a deposition taken before, have you?

A. No.

Q. This is probably the only time short of a
trial that I'm going to get an opportunity to ask you
questions under oath and actually get to know what it
is that you know short of something really going awry
here today by way of additional information or
documents or information that I haven't seen. This
is my, kind of, singular stab to find out what you
know about the allegations in the lawsuit, the
witnesses, the documents, my clients' defenses, et

1 cetera.

2 So it's going to be somewhat of a
3 deliberative process. I'm going to try to move you
4 through it expeditiously. Everything that's being
5 said here is being taken down by the court reporter
6 to my right, who is very good and is already
7 challenged with a few of the \$20 words that come out
8 of my mouth. So I will try to slow down.

9 And my obligation to you is to give you a
10 clear question. And your obligation, quite frankly,
11 if we're going to have this agreement is: If you
12 don't understand my question, just let me know; and
13 I'll rephrase it. My goal here is to get information
14 from you, not to torture you. So if you need to take
15 a break to use the restroom -- I don't know if you
16 smoke -- or whatever happens, if you need to take a
17 break, just let me know.

18 The caveat to that is: I'm not going to
19 let you take a break if there's a question pending
20 unless it's going to call for some privileged
21 communication that you and Trisha need to talk about.
22 And on that occasion, we're going to have a break
23 probably anyhow because Trisha will be calling for
24 it.

1 Kaitlyn, do you recognize Joy Caudill
2 sitting next to me?

3 A. Yes.

4 Q. I'm going to do a bunch of background
5 questions. But I guess the first thing is: Are you
6 actually married?

7 A. I am.

8 Q. Okay. When did you get married?

9 A. February 22.

10 Q. Okay. Of?

11 A. This year.

12 Q. Of 2022?

13 A. Yes.

14 Q. Congratulations.

15 A. Thank you.

16 Q. Is it Shaniqua? Is that your spouse's
17 name?

18 A. Yes.

19 Q. Okay. So 2/22/22?

20 A. Yes. We waited for the date.

21 Q. I was going to say: In a Pee Wee Herman
22 sort of way you meant to do that, right?

23 A. Yes.

24 Q. Well, congratulations. Prior to your

1 marriage to Shaniqua, had you been married before?

2 A. Yes.

3 Q. Can you tell me -- How many times have you
4 been married other than Shaniqua?

5 A. Just the one time.

6 Q. What was the name of your spouse?

7 A. Patrick Holland.

8 Q. And when were you and Patrick married?

9 A. 2009 to '11.

10 Q. And was there a divorce or a dissolution
11 of that marriage?

12 A. Divorce.

13 Q. And who filed for that divorce?

14 A. I did.

15 Q. And do you remember what grounds you
16 alleged to get the divorce against Patrick?

17 A. I don't remember.

18 Q. Where was the divorce filed?

19 A. Franklin County.

20 Q. Do you remember the name of the lawyer
21 that you used for the divorce?

22 A. Robert Bracco.

23 Q. As we sit here today, I understand there
24 were children born of your marriage to Patrick.

1 A. Yes.

2 Q. Two?

3 A. One.

4 Q. One?

5 A. Yes.

6 Q. Do you have another child?

7 A. Yes.

8 Q. How old is your oldest child?

9 A. Fourteen.

10 Q. And what's his or her name?

11 A. Camberly Porter.

12 Q. And your next oldest child?

13 A. Kassidy Holland.

14 Q. And how old is she?

15 A. She's 12.

16 Q. Is there a support obligation in your
17 divorce case with regard to your son, Camberly?

18 A. My daughter, no.

19 Q. Your daughter. I'm sorry.

20 Is there a support obligation with regard
21 to Kassidy?

22 A. Yes.

23 Q. And who is that support obligation
24 against?

1 A. Patrick Holland.

2 Q. So I'm not rolling my eyes. I'm already
3 confused. I think you said there was one child born
4 of your marriage. Was there one born before you were
5 married to Patrick?

6 A. Yes.

7 Q. That explains it.

8 Other than Porter and Holland, have you
9 been known by any other names --

10 A. No.

11 Q. -- last names?

12 Kaitlyn, do you mind if I call you
13 Kaitlyn?

14 A. Sure.

15 Q. Where do you live today? Where do you
16 reside?

17 A. In Columbus.

18 Q. What's the address there?

19 A. 3664 Soft Wind Drive.

20 Q. And what's the ZIP?

21 A. 43232.

22 Q. How long have you lived there?

23 A. Since February 1.

24 Q. Of 2022?

1 A. Yes.

2 Q. Prior to the Soft Wind Drive address,
3 where did you reside?

4 A. 529 Sawyer Boulevard, Apartment 214,
5 Columbus, Ohio, 43203.

6 Q. And how long did you live on the Sawyer
7 Drive or Sawyer Road address?

8 A. For a year.

9 Q. A year?

10 A. Uh-huh.

11 Q. Is that a yes?

12 A. Yes.

13 Q. I'm sorry. I don't usually mean to launch
14 all the rules. I think two of them that will help
15 is: I'll try not to talk over you or anticipate your
16 answer. But also, if you say yes or no instead of
17 huh-uh or uh-huh --

18 A. I understand. It's habit.

19 Q. -- we won't have to argue about what that
20 means. Thank you.

21 Prior to Sawyer Road, where did you live?

22 A. At 7005 Westfall Road Southwest. That
23 would be in Lancaster, Ohio.

24 Q. That's Fairfield County?

1 A. Yep. 43130.

2 Q. How long approximately did you live at the
3 Westfall address?

4 A. A little over a year.

5 Q. Kaitlyn, I meant to ask you this question
6 further, and it's not meant to insult your
7 intelligence other anything else. It's just a
8 standard question. As you sit here today, are you
9 under -- have you had any alcohol or drugs consumed
10 in the last 24 hours?

11 A. No.

12 Q. Did you get a good night's sleep?

13 A. Yes.

14 Q. Can you think of any reason why your
15 memory might be impaired today other than the fact
16 that you're giving your singular deposition that
17 you've ever given in your life?

18 A. No.

19 Q. Prior to the Westfall address in Lancaster
20 where you lived for a year, where did you live prior
21 to that?

22 A. In Columbus on Canonby. I don't remember
23 the address. Canonby Place was --

24 Q. And maybe a different way to approach

1 this, Kaitlyn, would be this: You applied for
2 employment at my client's Liberty franchise -- or
3 Liberty Tax franchise in January of 2021?

4 A. Uh-huh.

5 Q. Is that a yes?

6 A. Yes.

7 Q. Where were you living then?

8 A. Lancaster.

9 Q. Was that on Westfall or somewhere else?

10 A. Yes. Westfall.

11 Q. It sounds like Westfall is a familial
12 address. Do you have a parent or an aunt or someone
13 that lives there?

14 A. My mom, yes.

15 Q. And what's your mom's name?

16 A. Kathy.

17 Q. And what's her last name?

18 A. Weber, W-E-B-E-R.

19 Q. With regards to the Soft Wind Drive
20 address where you currently reside and the Sawyer
21 Road or Drive address that you had testified to and
22 the Westfall Road address in Lancaster where you
23 lived for a year, with regard to those three
24 addresses, Kaitlyn, did Shaniqua live with you at all

1 three of those address?

2 A. No. Just the current one.

3 Q. So prior to Soft Wind, you maintained
4 separate residences?

5 A. Yes.

6 Q. Kaitlyn, I sent out a deposition notice.

7 MR. HERSHBERGER: And, Trisha, this is
8 more of a formality. I don't see any documents here
9 today. Is it fair there's not going to be any more
10 documents?

11 MS. BREEDLOVE: Correct.

12 MR. HERSHBERGER: Fair.

13 BY MR. HERSHBERGER:

14 Q. Kaitlyn, at the time that you were
15 terminated, did you have a feeling on the date that
16 you found out you were terminated that you felt
17 something wrong had been done to you?

18 A. Yes.

19 Q. Okay. Do you have a cell phone?

20 A. Yes.

21 Q. What sort of platform are you using? Are
22 you an Android person or an Apple person?

23 A. Apple.

24 Q. How long have you had your iPhone?

1 A. The current one?

2 Q. Yeah.

3 A. Three months.

4 Q. Okay. Some people are really brand loyal.
5 And I'll admit to being one of those persons because
6 I don't want to have to learn new technology, so I've
7 been an Apple guy for a while. Is that somewhat the
8 same with you? You used an Apple iPhone fairly
9 continuously?

10 A. Yes.

11 Q. Do you back up things to the Cloud on your
12 iPhone?

13 A. Unfortunately, not like I should.

14 Q. And how did you learn about that being an
15 unfortunate circumstance?

16 A. I recently lost a phone and had to order a
17 new one through my insurance and found that none of
18 my stuff was still there.

19 Q. And would that be like your contacts, your
20 calendar appointments, your email, all of that stuff?

21 A. Text messages, pictures. Yep.

22 Q. Well, with regard to the date that you
23 were terminated, were there texts on your phone
24 between you and Joy Caudill?

1 A. On that day, yes.

2 Q. And it was part of a larger trail of text
3 communications between you and Joy?

4 A. Yes.

5 Q. Have you seen the text communications that
6 have been produced by the defendants in discovery in
7 this case between you and Joy?

8 A. Yes.

9 Q. And we'll get to this in a moment because
10 it's a fairly voluminous document. I don't want to
11 have to go over it right now. But do you have
12 anything that you're aware of that would supplement
13 those texts that you've maintained on your phone and
14 printed out anywhere?

15 A. No.

16 Q. Aside from the text messages between you
17 and Joy, did you have text conversations between you
18 and Tony Marucco?

19 A. Not that I can remember, but it is
20 possible. I think I talked to him over the phone
21 though, not via text.

22 Q. Other than a driver's license, do you hold
23 any other licenses in Ohio?

24 A. I don't think so.

1 Q. Okay. I saw in some background that at
2 one point you were a state tested nurse's aide. And
3 I don't know if that's a license or a certification.

4 A. It is, but you have to recertify every
5 five years, which I think is why I think it's now
6 expired.

7 Q. When did you obtain your STNA
8 certification or licensure?

9 A. 2014 maybe.

10 Q. And when is the last time you worked in
11 the field of providing nurse aide services?

12 A. 2016 or '17 maybe.

13 Q. There's a name that came up in your
14 disclosures in this case of Ariel Fuller.

15 A. Uh-huh.

16 Q. What relationship -- Was she a coworker
17 with you?

18 A. Yes. She was my manager at West Gate.

19 Q. Have you had an opportunity to talk with
20 Ariel during the pendency of your lawsuit?

21 A. Yes.

22 Q. And when is the last time you spoke with
23 Ariel?

24 A. Probably about two months ago.

1 Q. Would you consider her a friend?

2 A. I would consider her an acquaintance. We
3 don't hang out outside of work or anything.

4 Q. Do you text her?

5 A. No.

6 Q. Call her?

7 A. Yes.

8 Q. Was Ariel a witness to your termination
9 from Two Guys and a Calculator as far as you're
10 aware?

11 A. She was not a witness to the termination
12 itself, no.

13 Q. To your understanding, does Ariel have any
14 knowledge or has she expressed to you any knowledge
15 of the circumstances surrounding your termination?

16 A. Yes.

17 Q. And what has she told you?

18 A. As it pertains to?

19 Q. Her knowledge of the circumstances
20 surrounding your termination.

21 A. I guess I need a more specific question.

22 Q. And I had asked you -- And this may be an
23 example of: I don't want you answering a question if
24 you don't understand it. I had asked you if you had

1 spoken with Ariel Fuller and whether she had
2 expressed any knowledge of the circumstances
3 surrounding your termination. I believe your answer
4 to that question was yes. So I'm just piggybacking
5 off of that.

6 Maybe a more broad questions is: If Ariel
7 was not there during your termination, has Ariel told
8 you how she -- if she has acquired any acknowledge,
9 how she acquired knowledge of the facts or
10 circumstances in her mind of why you were terminated?

11 A. She has been witness to how -- when I was
12 a receptionist, I was kind of forced out of my
13 position and the general situation or environment
14 that ended up causing me to be in Reynoldsburg and
15 how that happened --

16 Q. Okay.

17 A. -- as it just wasn't quite fair or right.
18 So --

19 Q. I'm going to jump around a little bit
20 here, and bear with me. You indicated that you were
21 married to Shaniqua in February of this year and to
22 Thomas --

23 A. Patrick.

24 Q. Patrick. Excuse me. I knew it was an

1 Irish name.

2 -- Patrick in 2011?

3 A. Uh-huh.

4 Q. Would you consider your sexual orientation
5 to be heterosexual, homosexual or bisexual?

6 A. I would say I'm a lesbian.

7 Q. And if I use the words -- I'm 56, so I'm
8 ancient. So forgive me. I'll try to use the word
9 lesbian to describe your sexual orientation; but if I
10 use gay or homosexual, just bear with me. I'm not
11 trying to dead name or dead orient anyone. I just
12 want to set that as kind of a ground rule so that as
13 I ask these questions we're moving forward on the
14 same page.

15 Kaitlyn, you're openly gay obviously. How
16 long have you been openly gay?

17 A. I would say about eight or nine years now.

18 Q. Kaitlyn, how many times were you at the
19 Reynoldsburg location of Two Guys and a Calculator or
20 Liberty Tax?

21 A. I can't really remember, but I'd say only
22 once or twice. I think I was there only one day.

23 Q. And on that one day, what did you do?

24 A. I shadowed a man -- I can't remember his

1 name. It was the old owner of the location -- while
2 he did taxes for the day.

3 Q. And what does shadowing entail at least at
4 Liberty Tax?

5 A. Sitting behind somebody and watching over
6 their shoulder.

7 Q. If you'll excuse this -- and I understand
8 my client's representatives and one of the defendants
9 in the case is sitting right beside me. But that
10 sounds kind of boring. Are you taking notes while
11 you're shadowing?

12 A. Yes and no. Notes at this point in time
13 are irrelevant because you've been through tax
14 school. So you're really observing how the program
15 works and how things like rounding numbers are going
16 on and how they move through the system, which forms
17 they use, things like that.

18 Q. Were you interacting verbally with the
19 gentleman that you were shadowing, asking him
20 questions or asking him how or why he does things?

21 A. Yes.

22 Q. So other than your interaction with this
23 one person at the Reynoldsburg store you think on one
24 occasion, do you remember anyone else at

1 Reynoldsburg -- at the Reynoldsburg location?

2 A. Other than the client we worked with,
3 there was an elderly receptionist. I don't remember
4 her name. But I think she worked, like, part-time.

5 Q. Do you know of anyone else at Liberty Tax,
6 the Two Guys and a Calculator franchise of Liberty
7 Tax, who are -- I'm just going to use a broad term --
8 homosexual, whether they're male or whether they're
9 female?

10 A. Not that I know of.

11 Q. How was it that -- And I'm going to make a
12 joke, but bear with me because sometimes if you ask a
13 guy or a person who is into fitness, what they do
14 with their time, they'll say, "This is what I do."
15 You don't even have to ask them. They'll just tell
16 you. Sometimes people go to a gym, you know, this
17 guy is like, "I do this" or whatever or, "I bike" or,
18 "I'm a fan of the Crew."

19 And for some people their sexual
20 orientation is like that because they're out, open
21 and maybe they're seeking relationships. And they're
22 obviously not concerned with, you know, the stigma
23 that society has historically tried to place on
24 people that are gay. So I'm trying to figure out how

1 it is that people knew you were gay, if anybody. So
2 who at Liberty Tax knew that you were gay?

3 A. You probably wouldn't openly know, as I
4 don't walk around explaining it, unless you came in
5 contact with my spouse while I was at work. So Ariel
6 knew, as I frequently had lunch delivered by my
7 spouse. Her sister was aware because she worked with
8 us in the same location.

9 Q. And who is Ariel's sister?

10 A. Let me remember her name. I don't
11 remember her name. I can't remember -- I can't think
12 of it because you asked me so fast. But she worked
13 in the same location with her, underneath her.

14 Q. If it comes back to you, just let me know.

15 A. Sure.

16 Q. So Ariel, Ariel's sister. Anyone else
17 that knew that you were a lesbian?

18 A. Other than Joy the last day, no. I don't
19 think it would have come up, to be honest.

20 Q. I'm not going to try to argue with you.
21 But there's -- At this point, lots of people have
22 their lunch delivered by lots of other people.

23 A. Sure.

24 Q. So what was it, if anything, that led to

1 the revelation or the discussion, if you will, of
2 your sexual orientation between you and Ariel just by
3 virtue of the fact that Shaniqua was delivering meals
4 to you?

5 A. She was also going through tax school with
6 the company. And so she would frequently be around
7 for conversation that would be for the tax school,
8 so, you know, "How do I do this? What is that?" She
9 would ask questions while she was there for Ariel.

10 So I think in conversation, they began to
11 know each other a little bit. And they asked
12 questions themselves, which led them to understand
13 each other, and she introduced herself as so.

14 Q. Okay. Ariel didn't indicate as far as
15 you're aware that she was gay or a lesbian rather?

16 A. No. I believe she's married, from what
17 she indicated.

18 Q. So this disclosure of your sexual
19 orientation and Shaniqua's sexual orientation came up
20 as casual conversation kind of unrelated to your work
21 duties at Liberty Tax, fair?

22 A. Correct.

23 Q. And was this at the West Gate location?

24 A. Yes.

1 Q. And how many days -- As you said, you were
2 at Reynoldsburg the one day. How many days were you
3 at West Gate?

4 A. The length of my employment minus the
5 times I would cover shifts at Lincoln Village for
6 close.

7 Q. And who was your supervisor at West Gate?

8 A. From my understanding, it would have been
9 Ariel; and then Ariel's would have been -- I think
10 his name was Dave. I can't remember.

11 Q. And then at Lincoln Village, who was your
12 supervisor?

13 A. Joy.

14 Q. And how many times do you think you were
15 at Lincoln Village, filling in over there?

16 A. A handful of times I would say. I can't
17 remember exactly how many, but maybe five or ten.
18 Not too many.

19 Q. Were there times that Shaniqua and you
20 were over at Lincoln Village working together?

21 A. Shaniqua did not work for the company.
22 She was just going through tax school, so she never
23 worked with me.

24 Q. Fair. Were there times at Lincoln Village

1 where you were working there as a receptionist that
2 Shaniqua would bring you lunch?

3 A. Yes.

4 Q. Kaitlyn, can you give me a -- I want to
5 discuss your educational history. So you graduated
6 from high school I'm assuming.

7 A. I took my GED.

8 Q. Okay. Your GED?

9 A. Yep.

10 Q. And where did you -- When did you obtain
11 that rather? Excuse me.

12 A. 2007 I want to say.

13 Q. I don't mean this pejoratively. When did
14 you drop out of high school?

15 A. 2007.

16 Q. And was that your senior year?

17 A. Yes.

18 Q. Which high school did you go to?

19 A. Groveport.

20 Q. So you were a Cruiser?

21 A. Yes.

22 Q. What were the circumstances that led you
23 to leave high school your senior year?

24 A. I had my first daughter.

1 Q. So the pregnancy and all that entailed
2 taking care of a newborn, you decided at that point
3 to put your education on hold and then go back and
4 get your GED, fair?

5 A. Not necessarily. I chose a different path
6 for my education, one that worked in a way that would
7 work with the family that I had.

8 Q. Well, at that time, since you and Patrick
9 did not get married until 2011, was Patrick living
10 with you and helping take care of the baby from 2007
11 to 2011?

12 A. No.

13 Q. For lack of a better term, you were a
14 single mom --

15 A. Yes.

16 Q. -- during that period?

17 A. Yes.

18 Q. And at that point, were you also living at
19 home on Westfall in Lancaster with Kathy?

20 A. No. I had my own apartment.

21 Q. So that's a handful if you don't mind me
22 saying so. So you have a newborn and you're working
23 and you have your own place?

24 A. Yes.

1 Q. What sorts of work were you doing in 2007?

2 A. I went in between property management and
3 warehouse work.

4 Q. We'll explore this a little bit more. I
5 want to go back to education then. So you got your
6 GED in 2007, but that would be the same year that you
7 graduated --

8 A. Uh-huh.

9 Q. -- you would have graduated, had you
10 graduated?

11 A. Yes.

12 Q. And after you got your GED, describe your
13 education for me.

14 A. I went to trade school to be an STNA.
15 Once I received my certification, I started looking
16 into college while I was working as an STNA.

17 Q. Where did -- Which trade school did you go
18 to to get your STNA certification or licensure?

19 A. Eastland-Fairfield Career Center.

20 Q. Did you work -- was it for Visiting
21 Angels?

22 A. Yes.

23 Q. Did you work for anyone else as a nurse
24 aide?

1 A. I worked privately.

2 Q. When did you obtain your nurse aide
3 licensure? I think you indicated earlier. My
4 apologies. Was that 2004?

5 A. No. I think it was 2011 or '9, one of the
6 two.

7 Q. When was your next educational opportunity
8 or path after that, Kaitlyn?

9 A. I enrolled in a college full time in 2011
10 and obtained my associate's in 2014.

11 Q. So in 2011 to 2014, got your associate's.
12 I'm assuming you were working full time as well?

13 A. Yes.

14 Q. What was your course of study?

15 A. Criminology.

16 Q. Were you interested in a career in law
17 enforcement or law or --

18 A. It was my prerequisites for pre law.

19 Q. And where did you get your criminology?

20 A. Kaplan University.

21 Q. Kaplan?

22 A. Uh-huh.

23 Q. Is that a yes?

24 A. Yes.

1 Q. I'm unfamiliar with Kaplan. Is that an
2 online, or is that --

3 A. They do have brick and mortar schools, but
4 they are online as well.

5 Q. How did you participate or attend school
6 during the period of 2011 to 2014?

7 A. I went to their brick and mortar location
8 in Columbus until it closed on my last quarter, so I
9 actually obtained the degree last quarter online.

10 Q. Any further education after your degree
11 from Kaplan?

12 A. Yes. I am currently working on my
13 bachelor's at Franklin University.

14 Q. Franklin?

15 A. Uh-huh.

16 Q. Is that a yes?

17 A. Yes.

18 Q. When did you start at Franklin?

19 A. I've been on and off since 2013.

20 Q. And how far -- What are you studying to
21 get your bachelor's?

22 A. I'm currently getting a bachelor's in
23 business management.

24 Q. Has that always been the case? Sometimes

1 people switch majors. Have you switched majors since
2 starting Franklin in 2013?

3 A. No.

4 Q. And how far away are you from obtaining
5 your bachelor's today, Kaitlyn?

6 A. I think I'm about six classes away.

7 Q. Are you on quarters or semesters?

8 A. Quarters.

9 Q. So maybe a couple quarters, right?

10 A. Yeah.

11 Q. So STNA. Then you got your associate's.
12 You're working on your bachelor's. Have we discussed
13 all your educational opportunities or colleges that
14 you've been in?

15 A. Yes.

16 Q. I want to talk about employment. Where
17 are you currently employed?

18 A. I'm actually on maternity leave right now.

19 Q. Okay. Are you pregnant right now, or did
20 you just deliver?

21 A. I just delivered. I had a baby 20 days
22 ago.

23 Q. My apologies, because I heard Camberly and
24 Kassidy, and I didn't hear the last. So my

1 apologies. How old is your son or daughter?

2 A. It's a daughter. She's 20 days.

3 Q. Well, congratulations.

4 A. Thank you.

5 Q. Who is your employer?

6 A. It would be Integra Affordable.

7 Q. What do you do there?

8 A. Property management.

9 Q. And where is Integra Affordable located?

10 Where are they headquartered?

11 A. They're an investor firm, so I work with
12 the New Jersey headquarters; but I believe they're
13 based out of California.

14 Q. And which location do you manage?

15 A. The Latitude Five25 building.

16 Q. That's here in Columbus. I think I've
17 seen it.

18 A. Yes.

19 Q. Is it on Long Street?

20 A. Sawyer Boulevard.

21 Q. Is that west -- coming west out of
22 downtown?

23 A. Yes.

24 Q. How long have you been working at Integra

1 Affordable?

2 A. Since August 16 of last year.

3 Q. Any other positions that you've held since
4 August 16 of last year until today?

5 A. No.

6 Q. Between the time of your termination from
7 Two Guys and a Calculator and the beginning of your
8 position at Integra Affordable, did you hold any
9 jobs?

10 A. No.

11 Q. Who is your supervisor at Integra
12 Affordable?

13 A. Motty.

14 Q. Can you spell that?

15 A. M-O-T-T-Y.

16 Q. And what is Motty's last name?

17 A. I'm not sure, to be honest.

18 Q. Is it a male or a female?

19 A. It's a male.

20 Q. And in terms of the tasks and duties that
21 you have to do property management for the Latitude
22 Five25 building on Sawyer Boulevard, who else works
23 with you, other than perhaps Motty, to manage that
24 property?

1 A. Currently nobody. I have maintenance
2 staff.

3 Q. So is HR handled out of New Jersey or
4 California for the property management that's being
5 done for the Latitude Five25 building?

6 A. I actually think those folks work from
7 home. I don't think they work out of any of the
8 buildings, but I'm not sure. I always hear them at
9 home though when I call, so I think they work from
10 home.

11 Q. Everyone is working from home nowadays.
12 How did you find out about this property management
13 position at Integra Affordable?

14 A. I applied through Indeed.

15 Q. And is that the type of work that you were
16 looking for when you obtained this position, property
17 management?

18 A. Yes.

19 Q. Since leaving -- Strike that.

20 Since your separation from Two Guys and a
21 Calculator, Kaitlyn, have you sought any positions
22 with tax preparation outfits like Liberty Tax?

23 A. Immediately after being discharged, I had
24 applied for a different location in a different city

1 but ultimately decided that I didn't want to do it;
2 so I went back to property management, which is what
3 I was doing before.

4 Q. What city were you interested in -- what
5 city were you seeking to be employed at at Liberty
6 Tax?

7 A. Where I was living, at Lancaster.

8 Q. And why was it exactly that you didn't
9 pursue that?

10 A. My experience wasn't very good with it.

11 Q. Okay. With -- You're talking about with
12 your former employment, or you didn't think it was
13 going to be good with your possible employment in
14 Lancaster?

15 A. Just with the previous employment
16 experience.

17 Q. Did you actually interview for a position
18 with Liberty Tax's franchises in Lancaster?

19 A. I think I spoke to somebody over the
20 phone, but ultimately chose not to do an interview.

21 Q. So I'm going to work backwards from your
22 position at Latitude Five25.

23 A. Sure.

24 Q. So we know two pieces of that which is

1 Latitude Five25. Then I'll just call it Liberty Tax
2 or Two Guys and a Calculator. During your employment
3 at Two Guys and a Calculator, did you have other
4 positions that you were working?

5 A. No.

6 Q. Prior to Two Guys, what was your
7 employment? What was the position and company that
8 you held immediately prior to Two Guys?

9 A. I don't quite remember. But I know I was
10 working at -- I was a property manager, and I had
11 worked very briefly for Advanced Auto in between.
12 And I'm not sure which one was right before.

13 Q. I saw Pep Boys. Is that the same thing as
14 Advanced Auto, or is that a different --

15 A. Yeah. It's auto parts. They own it.

16 Q. So Pep Boys and Advanced Auto are the same
17 thing?

18 A. Yes.

19 Q. So for Advanced Auto or Pep Boys, what did
20 you do for them?

21 A. I was an inventory manager.

22 Q. At which location?

23 A. Harrisburg.

24 Q. And can you give me the approximate dates

1 that you were working at Pep Boys?

2 A. I don't remember it, honestly. It was
3 very brief.

4 Q. Okay. Do you remember what year it was?

5 A. It would have been right before Liberty,
6 so a year before.

7 Q. Give me a second.

8 MR. HERSHBERGER: Off the record.

9 (Discussion held off the record.)

10 MR. HERSHBERGER: Back on the record.

11 BY MR. HERSHBERGER:

12 Q. You had indicated that you were employed
13 briefly at Pep Boys. Do you have an idea as to how
14 many days, weeks or months you worked there?

15 A. I don't remember.

16 Q. What were the circumstances surrounding
17 your separation from Pep Boys?

18 A. What do you mean?

19 Q. Were you fired?

20 A. No.

21 Q. Did you quit?

22 A. No. So I was hired to be a
23 driver/manager. I would have, in between managing
24 the inventory for parts, drove parts between

1 locations. This would require me to have, per the
2 company, a specific requirement in my license. That
3 was not revealed to me in the interview, so me and
4 management decided that we would ultimately part
5 ways, as I was not able to make those runs, as I
6 didn't have the license needed.

7 Q. So these duties that you're describing to
8 me now are part of your duties as an inventory
9 manager for Pep Boys?

10 A. Right.

11 Q. Kaitlyn, do you think you worked there
12 more than six months?

13 A. I don't think so. I can't remember.

14 Q. I mean, what you're describing to me
15 sounds like you may have been technically driving
16 illegally because you didn't have a certain
17 endorsement on your license and you didn't know it.

18 A. No. I wasn't driving for them.

19 Q. But they wanted you to?

20 A. Correct.

21 Q. So is this an added job function in
22 addition to the other things that you were doing that
23 caused you not to be able to perform the full duties
24 of the job?

1 A. Correct.

2 Q. And were there people similarly situated
3 to you, Kaitlyn, other than inventory managers at
4 other stores that also had this requirement imposed
5 upon them?

6 A. Yes.

7 Q. And what sort of licensure did you need to
8 obtain to be able to keep and perform -- keep on as
9 your position as inventory manager?

10 A. I can't even remember what the
11 requirements were.

12 Q. Did you need a commercial driver's
13 license?

14 A. I can't remember what the requirements
15 were.

16 Q. Did they -- Did the folks at management at
17 Pep Boys or Advanced Auto offer to train you?

18 A. Yes.

19 Q. Did they offer to pay for that training?

20 A. No.

21 Q. And do you know whether that training
22 entailed any sort of cost?

23 A. I'm not sure.

24 Q. What's your understanding as to how long

1 the training would have taken?

2 A. I'm not sure.

3 Q. Okay. Is it the case, Kaitlyn, that you
4 simply didn't prefer to drive for Pep Boys?

5 A. No.

6 Q. And I'm trying to understand why you and
7 the company would have parted ways at that time if
8 they were adding a job requirement for you.

9 A. Simply put, it would have put me in
10 between paychecks. And at the time my lifestyle did
11 not provide me the ability to go in between
12 paychecks, so I had to find another job that would
13 allow me to stay on payroll full time.

14 Q. While you were working for Pep Boys, were
15 you holding down another job as well?

16 A. No.

17 Q. Prior to this position at Pep Boys, which
18 was your employment immediately prior to Two Guys and
19 a Calculator, where did you work?

20 A. I was a property manager.

21 Q. Who were you a property manager for?

22 A. Big Guy Properties.

23 Q. And how long were you a property manager
24 for Big Guy Properties?

1 A. I can't remember the time frame. I'm
2 going to say close to a year, maybe a little more.

3 Q. And which property did you manage for Big
4 Guy's?

5 A. I had three locations. I ran Canonby
6 Place out west, Evergreen Apartments, which was also
7 out west and Kingdom Manor, which was up north.

8 Q. During this one year that you worked as a
9 property manager for Big Guy's, were you employed
10 elsewhere?

11 A. No.

12 Q. Can you describe the reasons for your
13 separation from your employment at Big Guy's.

14 A. The pandemic.

15 Q. So I want to make sure I understand the
16 time frames. Prior to Two Guys, then there was Pep
17 Boys. Prior to Pep Boys, there was Big Guy's, right?

18 A. Yes.

19 Q. And you separated from Big Guy's prior to
20 beginning your employment at Pep Boys, right?

21 A. Yes.

22 Q. And the reason for that separation was the
23 pandemic?

24 A. Yes.

1 Q. And what was it about the pandemic,
2 Kaitlyn, that caused that separation?

3 A. They let go the whole staff. They closed
4 the office essentially, so -- and then shortly
5 thereafter sold the company.

6 Q. So they were left without a property
7 manager for all of those three properties that you
8 were managing?

9 A. Correct.

10 Q. Do you know how they collected rents?

11 A. They always used, like, a collection box
12 system; and the manager would just go collect that
13 out of the boxes.

14 Q. Prior to Big Guy's and in the year or so
15 that you were there, where did you work?

16 A. I think I was a manager for Family Dollar,
17 but I can't remember what I did directly before that.

18 Q. How long were you the manager for Family
19 Dollar?

20 A. I don't remember.

21 Q. Less than a year?

22 A. Probably about around a year maybe.

23 Q. Was this full-time work?

24 A. Yes.

1 Q. Similarly, was Big Guy's full-time work?

2 A. Yes.

3 Q. Similarly, was Pep Boys or Advanced Auto
4 full-time work?

5 A. Yes.

6 Q. I sometimes get Family Dollar and Dollar
7 General mixed up. I've seen some references in some
8 records that I've looked at to Dollar General.

9 A. I worked at both.

10 Q. Okay.

11 A. I was a manager for both.

12 Q. Does -- Did Family Dollar sell liquor at
13 the time that you were working for them?

14 A. Family Dollar, yes. No. No. They
15 weren't.

16 Q. Which location of Family Dollar did you
17 work at?

18 A. The Central Point Plaza location.

19 Q. Is that in Columbus or Lancaster?

20 A. Columbus.

21 Q. Full-time work?

22 A. Yes.

23 Q. Were you the manager or the assistant
24 manager there?

1 A. At which place?

2 Q. At Family Dollar.

3 A. Family Dollar I was the assistant manager.

4 Q. And what were the circumstances
5 surrounding your separation from Family Dollar?

6 A. I got an opportunity to work for Big Guy
7 Properties.

8 Q. Resigned?

9 A. Yes.

10 Q. Did you provide notice?

11 A. Yes.

12 Q. And did you work out the term of your
13 notice?

14 A. I worked with half of it.

15 Q. During the time that you were employed at
16 Family Dollar, did you have other employment during
17 that time?

18 A. No.

19 Q. Prior to Family Dollar, where did you
20 work?

21 A. I don't remember.

22 Q. Do you remember the last employer that you
23 had before Family Dollar?

24 A. I think it was Dollar General.

1 Q. And which location at Dollar General?

2 A. I worked at a few. The last one I worked
3 at was James and Broad.

4 Q. What was your position for -- with Family
5 Dollar -- or Dollar General?

6 A. I was the manager.

7 Q. And you would have managed different
8 stores as they needed you?

9 A. Somewhat. They were restructuring about
10 the time I left, and they were trying to get
11 established managers to go to the new locations that
12 they were restructuring to kind of put them together
13 for them.

14 Q. How did you hear about Family Dollar?

15 A. One of the people I used to work with at
16 Dollar General went to Family Dollar.

17 Q. And I think your testimony was that you
18 worked at Dollar General before Family Dollar, true?

19 A. Yes.

20 Q. I know approximately six months, maybe a
21 year at Family Dollar. Do you have a ballpark
22 estimate?

23 A. About that.

24 Q. Full time?

1 A. Yes.

2 Q. And what were the reasons for your
3 separation from Family Dollar?

4 A. I got an opportunity to work for Big Guy
5 Properties.

6 Q. Did you work for Big Guy Properties on
7 more than one occasion?

8 A. No.

9 Q. While you worked at Dollar General, did
10 you have any other employment?

11 A. Yes. Here and there. I don't remember it
12 though because I worked there for quite sometime,
13 almost four years.

14 Q. You worked at --

15 A. Dollar General.

16 Q. -- Dollar General for about four years?

17 A. Yes.

18 Q. Did you ever work for Rue 21?

19 A. Briefly, yes.

20 Q. Did you ever work for Ryder?

21 A. Briefly, yes.

22 Q. Do you remember about when you worked for
23 Ryder?

24 A. No.

1 Q. Do you remember which location you worked
2 at?

3 A. It was Groveport London Road. That would
4 be, I think, Groveport, Columbus.

5 Q. What did you do at Ryder?

6 A. It was an inventory manager.

7 Q. Was that similar to what you were doing at
8 Pep Boys?

9 A. Yes.

10 Q. And how long do you think you were at
11 Ryder?

12 A. I can't remember. That was a very long
13 time ago.

14 Q. Less than a month?

15 A. I don't know.

16 Q. What were the circumstances surrounding
17 your separation from Ryder?

18 A. I don't remember. It was a very long time
19 ago.

20 Q. Were you fired?

21 A. I don't remember. It was a very long time
22 ago.

23 Q. Did you work for Public Storage?

24 A. Yes.

1 Q. Which location?

2 A. I worked at a few. Hamilton Road, both
3 locations. The one off Kinnear, a couple others.

4 Q. How long did you work for Public Storage?

5 A. I don't remember. It was over a year.

6 Q. And what did you do for them?

7 A. I was a property manager.

8 Q. Full time?

9 A. Yes.

10 Q. When you were working for Public Storage,
11 did you have other employment?

12 A. I can't remember.

13 Q. And do you remember the circumstances in
14 which you severed employment or ties with Public
15 Storage?

16 A. No.

17 Q. Do you recall if you were fired or quit?

18 A. No.

19 Q. Did you work for Little Caesars?

20 A. Yes.

21 Q. When did you work for Little Caesars?

22 A. I don't remember. It was very briefly.

23 Q. Briefly, less than two months?

24 A. I would assume. I don't remember.

1 Q. What did you do at Little Caesars?

2 A. I was the manager.

3 Q. For which store?

4 A. The South High Street location.

5 Q. I'll take your word that there's probably
6 only one.

7 A. Yeah.

8 Q. I don't know. Is that location still
9 around?

10 A. Yes.

11 Q. During your employment for Little Caesars
12 for these couple months or so, do you remember
13 whether you were working anywhere else?

14 A. I don't think so.

15 Q. Do you remember the circumstances
16 surrounding your separation from Little Caesars?

17 A. Ultimately, I don't think the environment
18 was for me.

19 Q. Can you expound upon that?

20 A. I believe at the time that I was in
21 school; and it was physically demanding, so it was
22 hard to manage both.

23 Q. Let's start maybe with this. I don't know
24 which one this is. I got some of these premarked.

1 So let's start with F.

2 - - -

3 And, thereupon, Defendant's Exhibit F was
4 marked for purposes of identification.

5 - - -

6 BY MR. HERSHBERGER:

7 Q. Kaitlyn, I'm handing you what's been
8 marked as Defendant's Exhibit F. This is part of
9 some subpoenaed information I received concerning
10 some employment that you had with -- it says: PRP
11 Employment Application. But I think this was also
12 known as Fusion Employer Services. Does this ring a
13 bell at all to you?

14 A. I briefly worked here.

15 Q. Okay. What did you do for Fusion?

16 A. Quality inspections.

17 Q. For how long?

18 A. Not very long. Maybe two weeks.

19 Q. And why did you work there only two weeks?

20 A. The manager wasn't paying out hours that
21 we worked, so overtime wasn't getting paid.

22 Q. Can you confirm for me that the first one,
23 two, three, four -- Well, let's look at this. Page 1
24 of Exhibit F, is that information that you provided

1 to Fusion Services or PRP for your position?

2 A. I'm sorry. I don't understand your
3 question.

4 Q. Looking at the information on Page 1 of
5 Exhibit F, is that information you provided to PRP
6 Employment or to Fusion related to applying for
7 employment there?

8 A. Are you asking me is it accurate --

9 Q. I'm asking you --

10 A. -- or if I provided it?

11 Q. If that's what you provided.

12 A. Yes.

13 Q. Same thing with regards to Page 2. Is
14 that the information that you provided?

15 A. Yes.

16 Q. And this would have been on March 19,
17 2019, if I'm looking at the date in the upper
18 right-hand corner. Does that ring a bell?

19 A. 3/19/19?

20 Q. Yes.

21 A. Sure.

22 Q. Okay. And then with regards to Page 3,
23 there's some handwriting on there as -- Is that your
24 handwriting?

1 A. Yes.

2 Q. And then turn to Page 5. It looks like
3 there's some initials there on Page 5 of this
4 exhibit.

5 A. Uh-huh.

6 Q. Are those your initials?

7 A. Yes.

8 Q. Okay. And then if you could turn to
9 Page 6. Are those your initials?

10 A. Yes.

11 Q. Okay. And then Page 7 there's a
12 signature. Is that your signature?

13 A. Yes.

14 Q. And then on Page 8 -- I don't know that
15 it's actually numbered, Kaitlyn, but it's the last
16 page of this exhibit. It's -- It appears to be your
17 W-2 form for 2019 from Fusion Employer Services. It
18 looks like you made about \$200 or so. Does that
19 comport with your understanding as to about how long
20 you worked there based on the hourly pay that you
21 were getting?

22 A. My pay was not received completely.

23 Q. Did you end up filing any sort of
24 grievance or charge against Fusion Employer Services

1 because of their pay practices?

2 A. I filed a complaint through the company
3 itself as well as HR.

4 Q. And was that resolved?

5 A. No.

6 Q. As a result of it not being resolved, did
7 you take any further steps?

8 A. Financially it wouldn't make sense to. I
9 would have paid more than I would have received back
10 in my check.

11 Q. Do you remember about how much per hour
12 you were getting paid at Fusion?

13 A. No. Maybe 17 I think. I can't remember.

14 Q. \$17 an hour. You don't remember though?

15 A. No.

16 Q. If I -- And I kind of do the gross math.
17 If I divide 17 into 258, I'm coming up with something
18 less than 20 hours. Do you think you worked more
19 than 40 hours for Fusion?

20 A. Yes.

21 Q. Do you think you worked more than 100
22 hours for them?

23 A. No.

24 Q. Set that aside for the court reporter.

And, thereupon, Defendant's Exhibit G was marked for purposes of identification.

BY MR. HERSHBERGER:

Q. This is going to be G. I'm handing you what's been marked as Exhibit G, Kaitlyn. Similarly, this is information that I got with the aid of a records subpoena. It looks like this one went to -- give me a second -- Rue 21?

A. Uh-huh.

Q. Do you remember working for Rue 21?

A. Not really. But, yes, I remember working for them.

Q. The date of this application on Page 1 is April 30, 2019, if I've got this right. Do you see where I am?

A. Right here?

0. Correct.

A. Uh-huh.

Q. Okay. Did you provide that information on Page 1 on that date?

A. I can't remember.

Q. Can you think of anyone else who would

1 have provided that information other than you if you
2 actually were employed there?

3 A. No. I mean, I was employed there so I
4 would assume, but I can't remember the dates.

5 Q. Looking at Page 2 of Exhibit G, it talks
6 about you're applying for a store manager position at
7 Rue 21. Did you work there as a store manager for
8 Rue 21?

9 A. I did.

10 Q. And it asked if you were able to work
11 overtime, and you indicated yes. Do you remember
12 that?

13 A. Yes.

14 Q. With regards to Page 2, did you provide
15 that information on Page 2 as part of your
16 application to Rue 21?

17 A. Yes.

18 Q. Same question with regards to Page 3. Did
19 you provide that information to Rue 21 as part of
20 your application?

21 A. Yes. I can see that they have me as
22 graduated though, and I'm not. So it may not be
23 accurate.

24 Q. The information that's there is the

1 information you provided?

2 A. I don't know. I don't remember. I
3 wouldn't have provided that I was graduated because
4 I'm not. So maybe it was over the Internet, and
5 things prefilled from --

6 Q. Is that your testimony though? You were
7 filling out this application over the Internet?

8 A. Yes.

9 Q. Then with regards to Page 4, that
10 information on that page, is that what you provided
11 as part of your application to Rue 21?

12 A. Yeah.

13 Q. Turn to Page 5. Is that part of the
14 information that you provided to Rue 21 as part of
15 your application?

16 A. This isn't provided information. It's
17 just description of a job.

18 Q. Well, you provided that to Rue 21. They
19 didn't fill it in themselves, fair?

20 A. No.

21 Q. It's not fair?

22 A. I don't make the scope of their position.
23 I wouldn't have told myself what the position
24 required, so, no.

1 Q. What I'm talking about is: If we look at
2 Page 5, it talks about employment at Little Caesars
3 in the middle of the page. Do you see that?

4 A. No.

5 Q. No? You don't see it?

6 A. Is this the page you're on?

7 Q. Bear with me. Yeah. I just can't read
8 upside down. My apologies. Right here. So pointing
9 to where it says Little Caesars on that page. So now
10 they're kind of signposted there. Do you see where
11 I'm referring?

12 A. Yes.

13 Q. And then there's a description of the job.

14 A. Yes.

15 Q. Is that the description that you provided
16 to Rue 21 of your duties at Little Caesars?

17 A. Yes.

18 Q. Turn the page to Page 6. Similarly, is
19 the information on that page information that you
20 provided to Rue 21 as part of this application?

21 A. Yes.

22 Q. Turn the page to Page 7. Same question,
23 Kaitlyn. Is this information that you provided to
24 Rue 21 as part of your application?

1 A. Yes.

2 Q. Turn the page to Page 8. There's a couple
3 of references there, and one is Robert Davis. And
4 I've seen this name come up in some others. So I
5 didn't know -- Who is Bob Davis to you? Is he
6 related to you at all?

7 A. No. He's my former manager.

8 Q. At which location or which employment?

9 A. Dollar General.

10 Q. And Cameo Keith, is that a relation to
11 Shaniqua?

12 A. Yes, that is.

13 Q. Is that the same person, or is that --

14 A. Yeah. It's her. I don't know why it came
15 out this way.

16 Q. So Cameo Keith is actually Shaniqua Keith?

17 A. Yes. That's her middle name.

18 Q. And that phone number that appears on this
19 page of this application for Rue 21 is or was at
20 least Shaniqua's at the time?

21 A. Yes.

22 Q. And if we can turn the page. I don't know
23 that you can verify this or not. But I think you
24 said your tenure there was relatively brief.

1 A. Yes.

2 Q. It looks like they have payroll for you
3 from May 8, 2019, to June 10, 2019. Does that
4 comport with your recollection of the approximate
5 dates that you worked -- or the period that you
6 worked at Rue 21 or for Rue 21, true?

7 A. I would assume, yes. I don't quite
8 remember off the top of my head. But it looks about
9 right.

10 Q. Were you paid all the monies that you were
11 owed during your employment at Rue?

12 A. I believe so, yes.

13 MR. HERSHBERGER: And Rue is R-U-E.

14 BY MR. HERSHBERGER:

15 Q. You can turn a couple pages to Rue crew
16 timecard. And there's some things that says
17 "exceptions" down at the bottom of the page.

18 A. Okay.

19 Q. I don't work for them. I tried to make
20 this out, and it looks like these were their
21 estimations of times that maybe you clocked in early
22 or left early. Did that happen for you during your
23 employment at Rue 21?

24 A. What are you asking?

1 Q. I'm asking whether you ever clocked in
2 early. Did you ever clock in late during your
3 employment at Rue 21?

4 A. I wouldn't remember.

5 Q. Do you remember ever leaving early?

6 A. I wouldn't remember.

7 Q. Do you ever remember missing a shift?

8 A. I wouldn't remember.

9 Q. If I end up taking the depositions of
10 folks from Rue and they confirm that this data down
11 here at the bottom of the page underneath
12 "exceptions" indicates instances where you may have
13 clocked out early or missed a shift or worked with an
14 unscheduled shift or not shown up for a shift that
15 you were scheduled for, would you have any reason to
16 debate that?

17 MS. BREEDLOVE: Objection. Speculation.

18 You can answer.

19 A. Absolutely. This doesn't really tell you
20 whether or not I came in to cover a shift or leave
21 early for them or not. This just states that I did
22 or didn't, which doesn't tell you why.

23 - - -

24 And, thereupon, Defendant's Exhibit H was

1 marked for purposes of identification.

2 - - -

3 BY MR. HERSHBERGER:

4 Q. Kaitlyn, I'm handing you what's been
5 marked as Exhibit H. This is a personnel action form
6 from 3166, Inc., which I believe is the Burger King
7 franchise. Do you remember working for Burger King?

8 A. Yes.

9 Q. How long did you work for Burger King?

10 A. Not very long.

11 Q. It looks like maybe two weeks. Does that
12 sound about right?

13 A. Yep.

14 Q. Have you seen this document before?

15 A. No.

16 Q. I'm going to ask you to take a look at
17 least Page 1 of it. And let me know when you're
18 done.

19 A. Okay.

20 Q. Were you terminated from Burger King?

21 A. No.

22 Q. Did you quit?

23 A. Yes.

24 Q. If you see where it says question one on

1 the personnel action form, let me know when you're
2 there.

3 A. Yes.

4 Q. And it asked to describe the events
5 leading up to termination with specificity. And
6 what's written in bold by someone was: "On July 4,
7 Kaitlyn indicated that she was quitting." Does that
8 comport with your recollection?

9 A. I don't remember the date, but, yes, I
10 quit.

11 Q. And what was the reason for you quitting?

12 A. Overall management. They weren't properly
13 putting us into the system as far as our hours go.
14 So they would put, like, two people on a shift that
15 really needed four or five people, which really
16 stressed out the two people that were there. On top
17 of that, management was not professional.

18 Q. How were they not professional?

19 A. The manager that I was directly underneath
20 was using drugs on the shift. So --

21 Q. What kind of drugs?

22 A. I'm not entirely sure what she was doing,
23 to be honest. I don't --

24 Q. Kaitlyn, I'm asking because if they were

1 doing drugs, you either personally witnessed that or
2 someone told you that they were using or the person
3 admitted, right?

4 MS. BREEDLOVE: Objection.

5 BY MR. HERSHBERGER:

6 Q. So I'm trying to figure out the basis for
7 your knowledge.

8 A. Either way, I quit because it was not a
9 good environment for me.

10 Q. And I'm turning back to the question that
11 I asked. Did this person that you thought was using
12 drugs, did they admit to using drugs on the job?

13 A. I don't remember.

14 Q. Did someone else tell you that this person
15 was using drugs?

16 A. I don't remember.

17 Q. Did you observe this person
18 observing drugs -- or using drugs?

19 A. Yes.

20 Q. And what drugs did you observe this person
21 using?

22 A. I don't know.

23 Q. Were they taking pills?

24 A. No.

1 Q. Were they smoking anything?

2 A. Yes.

3 Q. Okay. Were they smoking crack or
4 marijuana?

5 A. I don't know.

6 Q. Do you know what it is that they were
7 smoking?

8 A. No.

9 Q. So you know that it was a drug?

10 A. I felt that way, yes.

11 Q. Why?

12 A. Because they were impaired afterwards.

13 Q. In what way?

14 A. In the impaired way.

15 Q. Were they -- Was their speech slurred?

16 MS. BREEDLOVE: Objection. What is the
17 relevance?

18 MR. HERSHBERGER: She's got a retaliation
19 claim here. It will tie in.

20 BY MR. HERSHBERGER:

21 Q. Did you report -- As a result of this
22 concern about management being under drugs to the
23 point that you're going to quit, did you report this
24 concern up the management chain?

1 A. Yes. I did to the regional.

2 Q. And did you get any resolution?

3 A. No. That's why I left.

4 Q. Was this person that you thought was under
5 the influence of drugs or had taken drugs a comanager
6 with you or someone above you?

7 A. I don't know how they would classify it.
8 We worked together as managers, but I don't know if
9 she was above me or not. I wasn't there long enough
10 to --

11 Q. You didn't have the power to fire this
12 person?

13 A. No.

14 Q. And you didn't hire them?

15 A. No.

16 Q. All right. We're done with H.

17 - - -

18 And, thereupon, Defendant's Exhibit I was
19 marked for purposes of identification.

20 - - -

21 BY MR. HERSHBERGER:

22 Q. Kaitlyn, handing you what's been marked as
23 Exhibit I. I sent out a records subpoena to Anchor
24 Security and Logistics and received some documents

1 that you have in front of you. Have you seen these
2 documents before?

3 A. Yes.

4 Q. Is the handwriting that's on Page 1 of
5 Exhibit I yours with the exception of the stuff at
6 the bottom?

7 A. Yes.

8 Q. Did you end up getting \$12 an hour to
9 start there?

10 A. No.

11 Q. What did you get?

12 A. They were supposed to pay me that and
13 didn't pay me.

14 Q. What did they pay you?

15 A. Nothing.

16 Q. How long did you work for Anchor Security
17 and Logistics?

18 A. I want to say less than two weeks.

19 Q. Turning your attention to Page 2. Is that
20 all in your handwriting as well?

21 A. No.

22 Q. Okay.

23 A. Wait. This is Page 2.

24 MR. HERSHBERGER: My apologies. Oh,

1 man. So this is a hang up. My apologies. Off the
2 record.

3 (Discussion held off the record.)

4 MR. HERSHBERGER: Back on the record.

5 - - -

6 And, thereupon, Defendant's Exhibit I-2
7 was marked for purposes of identification.

8 - - -

9
10 BY MR. HERSHBERGER:

11 Q. Kaitlyn, my apologies. So I think the
12 best way to clear up this record is: I'm going to
13 take Exhibit I, and it's going to go right in the
14 trashcan. And I'm going to restart your examination
15 using what's in front of you as Exhibit I-2 because
16 we didn't -- we weren't on the same page. And I
17 don't think that we covered too much ground.

18 And I think the questions were this: With
19 regards to Exhibit I-2 that's in front of you, can
20 you confirm that all of the handwriting that's on
21 Page 1 with the exception of the stuff at the bottom
22 that begins with the words "open" and then it says:
23 "trans," I think it stands for transportation, "yes,"
24 "smart, yes" and "below," that's in your handwriting,

1 correct?

2 A. Everything, yes.

3 Q. And then with regards to Page 2 which we
4 now have the same Page 2, all the information on that
5 page and your signature is your handwriting, correct?

6 A. Correct.

7 Q. And then attached to that is the resumé
8 that you provided to Anchor Security and Logistics,
9 correct?

10 A. Correct.

11 Q. You can set that aside. Kaitlyn, can you
12 think of anyone that in your mind went through what
13 you went through during your employment at Two Guys
14 in terms of being moved around to a different
15 location?

16 A. Yes.

17 Q. Can you give me those person's names?

18 A. I didn't know a lot of people's names.

19 But there was an African gentleman that had been
20 swapping locations at the time that ended up
21 somewhere else before he ended up at West Gate right
22 before I left as well. I don't know where he ended
23 up after that. But he had been moved around a little
24 bit.

1 Q. And did you have an understanding from
2 talking with this African gentleman why they were
3 moving him around or why he was being moved around?

4 A. He actually was very confused about the
5 process as well. He was just coming out of tax
6 school as a tax preparer and was supposed to be
7 shadowing at the location and was very unaware of
8 really what was coming next or what he was doing.

9 Q. Okay. Do you remember -- I want to go
10 back to Reynoldsburg and the day that you were there
11 shadowing the gentleman. I think you said he used to
12 be the owner there.

13 A. Uh-huh.

14 Q. Do you remember any interactions that you
15 had with this gentleman at all?

16 A. Sure. It was only for the day.

17 Q. What sorts of things do you remember
18 happening?

19 A. We chatted about the location, about how
20 he kept his back office, where he kept things.

21 Q. Okay. Anything else that you can recall?

22 A. Not necessarily, nothing out of the
23 ordinary, small talk.

24 Q. Fair enough. And I kind of signpost that

1 because I think in your prior testimony you had
2 concerns at a prior employment about the
3 professionalism of the team around you and the
4 management, et cetera.

5 With regard to the day that you were at
6 Reynoldsburg shadowing this person that used to be
7 the owner of that location, did you have any
8 unprofessional interactions with him? Maybe a
9 different way of putting it.

10 A. Are you asking if was he unprofessional
11 with me?

12 Q. Did you feel that he acted
13 unprofessionally towards you?

14 A. I don't think so, no.

15 Q. Was there anything that he said or did
16 that caused you concern or some sort of need for
17 alert, for alarm about working at Reynoldsburg?

18 A. Yes. He was not doing taxes correctly.

19 Q. Okay. And I'm not dismissing them. But I
20 want to move on. Other than that then, is there
21 anything else that you observed or saw this gentleman
22 do that gave you concerns or alerts about working at
23 Reynoldsburg?

24 A. He overall seemed very detached, like he

1 wasn't there, but he was.

2 Q. Was this an older gentleman?

3 A. Yes.

4 Q. In his 70s?

5 A. I don't know how old he was. He looked
6 older.

7 Q. Did you have any discussions with him
8 about his experience as a -- or tenure as an owner or
9 operator of the Reynoldsburg location?

10 A. Not specifically that I can remember.

11 Q. Did you have any conversations with this
12 gentleman about his training, education and
13 experience in tax preparation?

14 A. Not that I can remember.

15 Q. With regards to the -- I think you talked
16 about rounding concerns. To the best of your
17 understanding, describe for me what it is that you
18 observed -- I'm assuming it's this gentleman that
19 we're talking about, this older gentleman -- what you
20 observed him doing and how many times you observed
21 him doing it.

22 A. Well, it was only the one day I sat with
23 him. But I think we only handled one client together
24 that day. There wasn't a lot of business at the

1 location. But he was -- There was a -- Specifically
2 we were taught to round numbers in tax school. And
3 from what I remember, he was not rounding the correct
4 way forward. He was rounding backwards.

5 Q. Okay. What do you mean by rounding
6 forwards versus rounding backwards?

7 A. So rounding up to the nearest tenth versus
8 down.

9 Q. So if there's a tax item that ends in .51,
10 you're supposed to round up to the next dollar; and
11 if it ends in .49 you round down, correct?

12 A. Correct.

13 Q. And if it's .5, what happens?

14 A. What do you mean?

15 Q. What if it's right in the middle, if a tax
16 item ends at .5 or 50 cents?

17 A. I don't remember what the tax school
18 referred us to do. I believe we were to round down.

19 Q. And if you had a bunch of items in a
20 rounding group, were you to round each item up or
21 down, or were you to round up the sum of the items?

22 A. Could you be more specific?

23 Q. Sure. I'll give you an example. Let's
24 say you're looking at a charitable deduction,

1 contribution and you have four different sources of
2 charitable giving. And one comes out to below 49
3 cents, another comes out to below 49 cents, and still
4 a third comes out to below 49 cents. Would you round
5 each one of those down, or would you add all the
6 charitable deductions together and round either up
7 and down?

8 A. I believe you would add them all together
9 and round up and down, but I don't remember
10 specifically what tax class told us to do.

11 Q. Do you remember which tax return you were
12 working on when you observed the instance of
13 rounding?

14 A. I don't remember the lady's name. But it
15 was a female that was getting her taxes done that
16 day. I believe it was the only one that came in and
17 got her taxes done that day.

18 Q. And was that the only return that you
19 shadowed or observed with regards to this gentleman
20 that was there?

21 A. Yes. It was how long I was there.

22 Q. And how long did it take to do that
23 return, because that sounds like an arduous day.

24 A. I want to say it was maybe an hour and a

1 half, if that. It wasn't too long. It was pretty
2 quick.

3 Q. So you had been in this location an hour
4 to an hour and a half on that one occasion?

5 A. I stayed at the location all day. That's
6 just how long that appointment took.

7 Q. And what did you do the rest of the time?

8 A. I was going over -- I don't remember what
9 it was specifically called. But there were, like,
10 videos that you had to watch to begin; so I was doing
11 that in between.

12 Q. And as best you can recall, Kaitlyn, where
13 on the return were these rounding issues coming up?

14 A. The whole thing.

15 Q. Okay. Every line item he was either
16 rounding up or rounding down incorrectly?

17 A. I don't remember specifically, but I know
18 he was rounding incorrectly on the return.

19 Q. Did you bring this to this gentleman's
20 attention?

21 A. No. I felt like that was unprofessional.
22 I had just met him, and he wasn't my manager.

23 Q. Did you bring it to anybody's attention?

24 A. I brought to it Joy's attention.

1 Q. With regards to the day that you were in
2 Reynoldsburg, do you remember what date that was?

3 A. I don't. It was around the 9th or the
4 10th.

5 Q. Of February?

6 A. Yes.

7 Q. And when did you report this concern to
8 Joy?

9 MS. BREEDLOVE: Objection.

10 A. The day it happened.

11 MS. BREEDLOVE: Go ahead.

12 BY MR. HERSHBERGER:

13 Q. Okay. Were you still at the location when
14 you made this report?

15 A. Was I physically there, or was I working
16 there?

17 Q. Is there a distinction?

18 A. Yes.

19 Q. Okay. Did you work from home?

20 A. No.

21 Q. Okay. Would it be fair that if you were
22 working there, you had to be physically there to do
23 that?

24 A. Yes.

1 Q. Okay. Were you still at the Reynoldsburg
2 location when you contacted Joy to report your
3 concern about rounding?

4 A. I was not physically there, but I still
5 worked there, yes.

6 Q. In other words, you were still employed
7 there? You weren't just at the store?

8 A. Right.

9 Q. Where were you physically when you made
10 this call or communication with Joy?

11 A. I was in the car.

12 Q. Heading home?

13 A. Yes.

14 Q. Called her on your cell phone?

15 A. Yes.

16 Q. And to the best of your knowledge, were
17 you reaching Joy on her cell phone?

18 A. Yes.

19 Q. How long do you think the call lasted?

20 A. I can't remember whose -- It was, I think,
21 very brief. Maybe less than ten minutes.

22 Q. Were there any other concerns that you
23 expressed to Joy other than this rounding concern
24 during that conversation that you can recall?

1 A. Yes. I had brought up the concerns I had
2 for training.

3 Q. And in terms of you weren't finished with
4 it?

5 A. In terms of the fact that I didn't feel
6 like it was efficient, especially for the liability
7 we held as tax preparers.

8 Q. Did you have any discussions with the
9 folks at Two Guys and a Calculator about what
10 professional liability insurance they have in force
11 or effect to protect persons that may make errors on
12 a tax return?

13 A. That information was not provided, nor was
14 I aware that that was something that I could utilize.

15 Q. Did you inquire about it?

16 A. I didn't know it was existent.

17 Q. In this ten-minute conversation that you
18 had with Joy on either February 9 or 10, what were
19 the discussions beyond training and this rounding
20 incident that you observed? Anything else that you
21 can recall?

22 A. I had discussed the fact that I still
23 didn't have a PTIN, which I needed to practice solo
24 by myself and --

1 Q. Did you say PTIN, P-T-I-N? PTIN?

2 A. Yes.

3 Q. And can you describe for the Court and the
4 benefit of the record what a PTIN is.

5 A. It's basically a number that -- for
6 yourself as a tax preparer to identify yourself on a
7 tax return.

8 Q. Anything else that you can recall other
9 than the PTIN, the rounding, the training?

10 A. There was some discussion of the location,
11 specifically me working at that location versus
12 working at West Gate.

13 Q. Okay. And anything else that you can
14 recall about this conversation other than the PTIN,
15 the location, the training, the rounding?

16 A. Not to my knowledge.

17 Q. Did Joy address your concerns about the
18 PTIN?

19 A. Yes and no.

20 Q. Describe that.

21 A. I was told that I just needed to order it,
22 and I would be refunded for it.

23 Q. Did that happen?

24 A. No.

1 Q. Okay. And did it happen because your
2 employment was ultimately terminated before it could
3 happen?

4 A. I don't know.

5 Q. With regards to the training, how did that
6 resolve, if at all?

7 A. It did not. I was let go.

8 Q. Did Joy think you needed more training?

9 A. I don't think it was addressed.

10 Q. Had you completed all the training modules
11 necessary to pass the tests as far as Liberty Tax was
12 concerned, to the best of your understanding?

13 A. Can you be more specific to your question?

14 Q. Sure. Describe for me your training that
15 you had at Two Guys and a Calculator to be a tax
16 preparer.

17 A. All I did was take the online courses. I
18 did not have shadow time or physical training.

19 Q. Well, you did have some shadow time at
20 Reynoldsburg at least on February 9 or 10, fair?

21 A. No. It was not done correctly.

22 Q. And why do you say that?

23 A. Because it was not done correctly.

24 Q. What makes you say that?

1 A. Well, the program that I had just watched
2 for hours on end online stated that it was to be done
3 one way, and he was doing it a separate way from
4 that.

5 Q. I was talking about your training.

6 A. I'm confused at what you're asking.

7 Q. Sure. I asked you to describe for me the
8 scope of your training, what that entailed. You said
9 it was online, and then you said there's supposed to
10 be some shadowing. And then I asked you, I said you
11 received some shadowing on February 9 or 10. Let me
12 know if I'm saying anything out of order. And then I
13 asked, you know, you got some shadowing that day, and
14 you said it wasn't done correctly.

15 A. Correct.

16 Q. And I asked you why you say that.

17 A. Because he wasn't doing taxes correctly.

18 Q. You were provided a shadowing opportunity
19 on at least February 9 or 10?

20 A. Yes.

21 Q. Was there supposed to be different
22 shadowing opportunities as you understood it --

23 A. Yes.

24 Q. -- prior to you starting at Reynoldsburg?

1 A. Yes.

2 Q. And did you discuss that with Joy?

3 A. It was discussed, yes.

4 Q. And what was decided or what you were told
5 was going to happen?

6 A. I ultimately wasn't really told anything.
7 I was given an ultimatum of locations, not ultimatum
8 of training.

9 Q. You've been a manager before, right? I
10 mean, you've managed people?

11 A. Yes.

12 Q. Have you ever had to hire anyone?

13 A. Yes.

14 Q. Have you ever had to fire anyone?

15 A. Yes.

16 Q. You're familiar with concept of employment
17 at-will?

18 MS. BREEDLOVE: Objection.

19 A. Yes.

20 Q. And what's your understanding as to what
21 employment at-will is?

22 A. The law.

23 Q. Okay. And the law of what? What does
24 that mean to you? When someone says Kaitlyn is an

1 employee at-will for instance or Joy is an employee
2 at-will, what does that mean to you?

3 A. I don't have a meaning of it.

4 Q. Okay. How many people have you ever
5 terminated, Kaitlyn?

6 MS. BREEDLOVE: Objection.

7 You can answer.

8 A. I can't remember off the top of my head.
9 I'd say probably ten or so.

10 Q. And were those in situations where the
11 people were being let go for cause because they had
12 done something or not done something in their
13 employment?

14 A. Generally, yes.

15 Q. It may be specific conduct? It may be
16 attendance? It may be they cursed or broke some sort
17 of company policy? Those sorts of instances, right?

18 A. Yes.

19 Q. And did you ever end up having to testify
20 in court or at an unemployment hearing because of a
21 termination that you made during your employment as a
22 manager?

23 A. No.

24 Q. Would you agree that an employer has a

1 right to dictate the location of work that employees
2 perform?

3 A. No.

4 Q. Why do you say that?

5 A. Because when you're hired, you're given
6 the location then. So at that point, you're hired
7 for that reason and that purpose; so if it changes,
8 that has to be agreed upon between the employee and
9 employer.

10 Q. And why do you say that?

11 A. Because that was the original agreement
12 when the employee came to the employer. The employee
13 doesn't come applying thinking that they won't know
14 where their location is going to be in three months.

15 Q. Fair. So I'll get to two things. But,
16 one, say that those circumstances change, whatever
17 agreement there was originally as to where the
18 employee was to work. The employer wants to change
19 that. Okay. That can happen, and it does happen,
20 does it not?

21 A. Not in my experience.

22 Q. Okay. With regards to an agreement,
23 what's the genesis of this agreement? Strike that.

24 When you were hired at Two Guys and a

1 Calculator, you started as a receptionist?

2 A. Yes.

3 Q. Okay. And then did you express interest
4 in a tax training course?

5 A. I did.

6 Q. And was that because Shaniqua had also
7 expressed interest?

8 A. No. She had not been a part of the tax
9 school at the time.

10 Q. So the employer in this case, Two Guys,
11 indicated that they would provide you the training or
12 the wherewithal, if you will, to become a tax
13 preparer for them?

14 A. Yes.

15 Q. And you took that training in terms of the
16 online coursework, correct?

17 A. Correct.

18 Q. And did you get a raise associated with
19 moving or transitioning from being a receptionist to
20 being a tax preparer?

21 A. No. I did, however, receive a raise in my
22 position as a receptionist.

23 Q. Over the course of how long had you been
24 there before this raise?

1 A. I can't remember.

2 Q. While you were there a month and a half?

3 A. Uh-huh.

4 Q. So is it your testimony that you were such
5 an outstanding receptionist that they gave you a
6 raise in a month and a half?

7 A. No. I didn't say that.

8 Q. Why did they give you a raise?

9 A. Because I requested it.

10 Q. From what to what?

11 A. I think 12 to 12.50.

12 Q. And when did that raise become effective?

13 A. I don't know.

14 Q. Would it have been the last week of your
15 employment?

16 A. I don't know.

17 Q. Would it have been commiserate with the
18 beginning of your training to become a tax preparer?

19 A. No. We were not paid differential to get
20 training.

21 Q. I'm just talking about in terms of did it
22 coincide, you being bumped from 12 to 12.50 an hour,
23 with the time that you began training to become a tax
24 preparer?

1 A. That's not a practice that they have.

2 Q. I'm not asking you that, ma'am. You want
3 me to ask the question again?

4 A. Sure.

5 Q. Do you know what the policies and
6 practices of Two Guys and a Calculator are?

7 A. Do I know them all? No.

8 Q. Do you know any of them?

9 A. Sure.

10 Q. Were they given to you in writing?

11 A. No.

12 Q. Were they given to you in training modules
13 that you watched?

14 A. Yeah.

15 Q. Okay. Were you given an employee
16 handbook?

17 A. I believe they were provided. I don't
18 remember how.

19 Q. And who was it at Two Guys that provided
20 these policies to you?

21 A. What do you mean?

22 Q. What's the name of the person at Two Guys
23 that provided you with any of the company policies?

24 A. I don't know.

1 Q. Was Joy one of them?

2 A. Sure. She was a manager.

3 Q. Which policies did she provide you with?

4 A. I don't know.

5 Q. Okay. Did Tony Marucco provide you with
6 any policies?

7 A. I don't know.

8 Q. Other than Joy, can you name any other
9 person in management, either at the West Gate
10 or -- what's the LV? What does that stand for?

11 A. Lincoln Village.

12 Q. -- Lincoln Village or Reynoldsburg
13 locations, any managers there that you can remember
14 providing you policies?

15 A. I don't know.

16 - - -

17 And, thereupon, Defendant's Exhibit J was
18 marked for purposes of identification.

19 - - -

20 BY MR. HERSHBERGER:

21 Q. Kaitlyn, I'm handing you what's been
22 marked as Exhibit J. This is a packet -- from a
23 packet of materials I received from Gap in response
24 to a records subpoena. Do you remember working for

1 the Gap?

2 A. I did not.

3 Q. Did you apply for employment at Gap?

4 A. I did.

5 Q. I want you to turn to Page 2. This seems
6 to suggest to me that sometime in the pay period
7 ending September 28, 2019, you worked five hours at
8 or for the Gap. Does that comport with your memory?

9 A. This was for paid orientation.

10 Q. Fair enough. Turning your attention to
11 Page 3. You did get paid for it then, right?

12 A. Yes.

13 Q. And turning your attention to Page 4. Is
14 this the information on Pages 4, 5, 6, 7, 8 and 9
15 that you provided online when you applied for a
16 position at the Gap?

17 A. Yes.

18 Q. I think there's another page behind that
19 that actually has maybe a separate exhibit sticker on
20 it. Keep going. My apologies. Keep flipping back.
21 Were you terminated from Big Guy's?

22 A. Yes.

23 Q. Did you receive any sort of performance
24 reviews when you were at Two Guys and a Calculator?

1 A. Not that I remember.

2 Q. Did you receive any sort of productivity
3 records or measurement of how well you were doing
4 your job?

5 A. Not that I can remember.

6 Q. Did you make a report of sexual harassment
7 to Two Guys and a Calculator?

8 MS. BREEDLOVE: Objection.

9 You can answer.

10 A. No.

11 Q. Did you make a complaint of being
12 involuntarily reassigned to Two Guys?

13 A. Yes.

14 Q. And who did you make that to?

15 A. Joy as well as Ariel.

16 Q. And how was that resolved, if at all?

17 A. It was not.

18 Q. And did make that report on the day that
19 you were terminated?

20 A. I do not remember the date.

21 Q. Do you remember if it was within the first
22 week after you were terminated, Kaitlyn?

23 A. I don't remember.

24 Q. Do you remember whether the report was in

1 writing or whether it was a telephone conversation or
2 a text or a fax or what the form of the communication
3 was?

4 A. Specifically to?

5 Q. To Ariel or Joy regarding your
6 involuntarily reassignment.

7 A. There were verbal conversations as well as
8 text messages and calls.

9 Q. Did you maintain any sort of record of
10 those text conversations?

11 A. I did not.

12 Q. What about the calls?

13 A. I didn't record them, no.

14 Q. Make any notes?

15 A. No.

16 Q. As you sit here today, Kaitlyn, do you
17 have -- have you been treated for any sort of stress,
18 anxiety or emotional discomfort related to your
19 separation from employment at Two Guys?

20 A. Yeah. It was very stressful for a while
21 for me.

22 Q. My question is whether you have been
23 treated.

24 A. What does that mean?

1 Q. Medical treatment.

2 A. I guess I don't understand what you're
3 asking. Did I go to a doctor for my stress?

4 Q. Yeah.

5 A. No.

6 Q. Did you go to a counselor for your stress?

7 A. No.

8 Q. Did you see any sort of medical or mental
9 health professional for your stress?

10 A. No.

11 Q. Any sort of pastoral or religious
12 counseling related to your stress?

13 A. No.

14 Q. How did you deal with your stress?

15 A. Generally I tried to internally deal with
16 it. Didn't have time to stop and see a doctor.

17 Q. What did you do in those six months or so
18 between when your employment ended and your
19 employment began with your current employer?

20 A. As it pertains -- What do you mean?

21 Q. Give me a day in the life of Kaitlyn
22 Porter during those six months. What sorts of things
23 were you doing?

24 A. I maintained my full-time school status.

1 Q. Took care of your kids?

2 A. Yes.

3 Q. When did you and Shaniqua get engaged?

4 A. November of last year.

5 Q. So this would have been after your
6 employment ended at Two Guys?

7 A. Yes.

8 Q. Did you ever introduce Shaniqua as your
9 wife to anybody at Two Guys?

10 A. As my wife, no.

11 Q. No?

12 A. No.

13 Q. Regardless of whether you introduced
14 Shaniqua that way, do you know whether any
15 representation was made in your hearing of Shaniqua
16 being your spouse?

17 A. Not that I know of.

18 Q. And to be fair, I was just asking whether
19 you heard that, because if that happened, from what
20 you're telling me, it wouldn't be accurate because
21 you guys didn't get engaged until after your
22 employment ended?

23 A. Right.

24 - - -

1 And, thereupon, Defendant's Exhibit K was
2 marked for purposes of identification.

3 - - -

4 BY MR. HERSHBERGER:

5 Q. Kaitlyn, I'm handing you what's been
6 marked as Exhibit K. Is that your handwriting down
7 there at the bottom of where the signature line is on
8 the first page of this?

9 A. No.

10 Q. The reason I'm saying that is: It says:
11 Offer of acceptance. It says: 6/5/19, and it's a
12 letter ostensibly addressed to you from Burger King
13 on behalf of Miller Management. And I think this
14 might relate to the 3166 entity. Have you ever seen
15 the first page of Exhibit K?

16 A. No. I don't even remember getting offered
17 this.

18 Q. Well, let's turn the page. Do you
19 remember getting paid?

20 A. Yes.

21 Q. Okay. And if we look at Page 1, it
22 indicates where it says "regular compensation" on
23 Page 1, your regularly hourly wage would be \$14, and
24 you get -- it would be time and a half overtime. And

1 if I look at Page 2, it looks like the rate hours for
2 your regular earnings was \$14 an hour. Do you see
3 where I'm talking about?

4 A. Yes.

5 Q. Do you remember working then at Burger
6 King?

7 A. Yes.

8 Q. And if you turn to Page 3, you got paid
9 for it, correct?

10 A. Yes.

11 Q. And if we turn to Page 4, it looks like
12 you worked at Burger King over a number of pay
13 periods or at least pay dates in 2019, fair?

14 A. Yes.

15 Q. If we turn to the next page, this is the
16 beginning of one, two, three, four, five pages of an
17 employment application. Is that information you
18 provided to Burger King related to your employment or
19 seeking employment there?

20 A. Yes.

21 MR. HERSHBERGER: This is L.

22 - - -

23 And, thereupon, Defendant's Exhibit L was
24 marked for purposes of identification.

1 BY MR. HERSHBERGER:

2 Q. Kaitlyn, I'm handing you what's been
3 marked as Exhibit L. This is your employment
4 application for my client, Two Guys and a Calculator,
5 correct?

6 A. Yes.

7 Q. And is Page 1 in your handwriting?

8 A. Yes.

9 Q. And is Page 2 in your handwriting?

10 A. Yes.

11 Q. And is Page 3 in your handwriting?

12 A. Yes.

13 Q. Is Page 4, the W-4 form, all in your
14 handwriting?

15 A. Yes.

16 Q. If we go a couple pages, you filled out
17 the form because it contains your Social Security
18 number throughout this.

19 MR. HERSHBERGER: We'll redact it, Trisha.

20 BY MR. HERSHBERGER:

21 Q. That's in your handwriting as well?

22 A. Yes.

23 Q. And then your employee's withholding
24 exception certificate is in your handwriting as well?

1 A. Yes.

2 Q. And signed by you?

3 A. Yes.

4 Q. On January 9, 2021, correct?

5 A. Yes.

6 Q. And following that, there's a three-page
7 resumé; am I right?

8 A. Yes.

9 Q. And is that what you provided to Two Guys
10 and a Calculator in connection with your application
11 for employment there?

12 A. Yes.

13 Q. Thank you.

14 MR. HERSHBERGER: Let's go off the record.

15 (Recess taken.)

16 MR. HERSHBERGER: Back on the record.

17 BY MR. HERSHBERGER:

18 Q. Ms. Porter, you understand you're still
19 under oath?

20 A. Yes.

21 Q. When we left off, I think we had just
22 finished going through your application packet at Two
23 Guys. How did you hear about the job at -- the
24 reception position at Two Guys?

1 A. Tony had posted an ad in the Grove City
2 Connect group that I saw.

3 Q. And did you apply online, or did you go
4 there in person?

5 A. I don't remember. I think I just had an
6 interview with Tony in person, and maybe I filled out
7 a paper app. I can't remember how I applied.

8 Q. And do you remember interviewing or Joy
9 being a part of that process when you met with Tony?

10 A. I believe Tony interviewed me, and then
11 possibly she did the second interview. I don't quite
12 remember. I know Tony did an initial first
13 interview.

14 Q. What was explained to you about where you
15 would be working as a receptionist?

16 A. West Gate.

17 Q. Is it the case that you ended up working
18 at multiple locations as a receptionist?

19 A. I did volunteer to help close Lincoln
20 Village when they needed help.

21 Q. You indicated in your application that you
22 were willing to relocate. Were you contemplating
23 relocation at the time you applied at Liberty Tax?

24 A. No. I think generally that's just

1 selected to be more flexible for the company.

2 Q. And what was it about your background that
3 made you think that a receptionist would be a good
4 position for you? Or was it just a case of you
5 needed some money, and the receptionist position was
6 out there or neither of those?

7 A. Reception is along the scale of
8 management. It's time and building management, so in
9 my scope of work.

10 Q. Were you given a job description for your
11 position as a receptionist at Two Guys?

12 A. No.

13 Q. What was explained to you would be your
14 duties as receptionist for Two Guys?

15 A. I would be answering phones and then
16 helping people get situated coming in the door to
17 have their taxes prepared.

18 Q. Did you have any understanding from your
19 discussions with Tony, Joy or anyone else during the
20 application and interviewing process that your job
21 duties as a receptionist would entail tax preparation
22 itself?

23 A. No.

24 Q. Similar question with respect to whether

1 your duties would entail as a receptionist getting
2 the actual tax forms out the door, either -- well,
3 I'm assuming mailed in one instance. So you would be
4 responsible for mail?

5 A. No.

6 Q. What about pickups or deliveries to the
7 locations where you were a receptionist? Would you
8 be tasked with making sure that the mail got
9 delivered or in the hands of the postal office person
10 or receiving the mail that came in and sorting it
11 out?

12 A. No.

13 Q. Did they have other persons to do that
14 as -- did you learn that they had other persons to do
15 that during your employment?

16 A. I have no idea what the mail process was.

17 Q. In addition to the receptionist position,
18 what other staff were on the locations, let's say,
19 West Gate? There were tax preparers. There was a
20 receptionist. Who else was there?

21 A. The sign folder.

22 Q. The sign flipper?

23 A. Yes.

24 Q. This person that's dressed like a Statue

1 of Liberty?

2 A. Yes.

3 Q. I'm assuming you didn't do that?

4 A. No.

5 Q. Anyone else that you can think of?

6 A. No.

7 Q. Who was Ariel's boss?

8 A. I think it was -- His name is Dave or it
9 started with a D. I don't remember his name.

10 Q. Do you remember Dave's last name?

11 A. No.

12 Q. Okay. And would this be Ariel's boss just
13 for the West Gate store?

14 A. I believe. But that was the only location
15 she worked.

16 Q. What is your understanding as to where Joy
17 Caudill fit into your chain of command?

18 A. I honestly didn't.

19 Q. Was Joy your supervisor?

20 A. I don't know. I knew she was a part of my
21 management team above myself.

22 Q. Do you know whether Ariel directly
23 reported to Joy or not?

24 A. No, I don't.

1 Q. You touched on a little bit of this this
2 morning about whether Shaniqua had applied for a
3 position at Liberty Tax, Two Guys, as well. Did she
4 ultimately do that?

5 A. I don't think she applied. They provided
6 her with a means to start tax school. And I don't
7 think she ended up getting to that place with them.

8 Q. Prior to applying for the receptionist
9 position at Two Guys, did you have any training,
10 education or experience in preparing tax returns
11 other than your own?

12 A. I frequently would help people file taxes.
13 I was pretty familiar.

14 Q. And by "people," did you get paid to do
15 this?

16 A. Just family and friends.

17 Q. Family and friends. Okay.

18 What was explained to you when you applied
19 for the receptionist position and spoke with Tony and
20 the others as to how long the employment would last?

21 A. It was expressed that the office was only
22 open until about April-ish. So it was seasonal work.

23 Q. And then what would happen after that?
24 Was that discussed?

1 A. No.

2 Q. What was your expectation when you
3 interviewed for the receptionist position and when
4 they told you, "Hey, come April we're going to be
5 closing up shop"?

6 A. What was my expectation?

7 Q. Yes.

8 A. I didn't have one.

9 Q. Was there an anticipation that they were
10 going to keep you on or let you go?

11 A. I didn't have an expectation.

12 Q. How long did it take from, kind of, the
13 application itself to starting as a receptionist?

14 A. I don't remember. I want to say maybe
15 like a week. Not long.

16 Q. Was any sort of training provided?

17 A. As far as?

18 Q. Anything that you needed to understand or
19 do as a receptionist. I'll be candid with you. I
20 couldn't be a receptionist anywhere because I don't
21 know how to answer phones. They baffle me to this
22 day.

23 A. I remember going to a separate location.
24 I want to say it was a closed location that they no

1 longer used anymore. I believe it was one day. It
2 could have been more than that. And I believe we
3 went over, as a whole, things to prepare taxes.
4 Preparers and receptionists, I believe they kind of
5 did like a group day where they went over things I
6 think mainly. So training was necessary to use the
7 program that they were in the office with.

8 Q. Was there another person that was being
9 trained to be a receptionist at another store when
10 you went through your one day of training?

11 A. Yes. Kathy.

12 Q. Do you remember Kathy's last name?

13 A. No.

14 Q. And where does Kathy ultimately end up
15 being placed, if you know?

16 A. Lincoln Village.

17 Q. And on those occasions when you closed or
18 substituted over at Lincoln Village, were you subbing
19 in for Kathy?

20 A. No. I believe I was subbing for another
21 young lady that was maybe -- Yeah. I believe she was
22 going to be a tax preparer from reception and was
23 helping them fill in the same as I was, to fill the
24 position.

1 Q. Help me out. How many receptionists were
2 there at the West Gate store during the time that you
3 were there?

4 A. One.

5 Q. And what were your hours typically?

6 A. I think I was 9:00 to 4:00 or 9:00 to
7 5:00. I cannot remember which one.

8 Q. Did the store have hours after 4:00? Did
9 that location have evening hours?

10 A. Yes. Another receptionist came in to
11 relieve me at night, I believe from 4:00 or 5:00 or
12 9:00 or 8:00.

13 Q. So it sounds like there were two
14 receptionists. You would fulfill most of the daytime
15 responsibilities.

16 A. Yes.

17 Q. And then someone else might come in to
18 help close?

19 A. Yes. I believe her name was Amanda.

20 Q. And were there times where you helped
21 close for evening stores either at West Gate or
22 Lincoln Village?

23 A. No. I was not a night closer. I worked
24 during the day. I would help them out at night with

1 Lincoln Village if they needed help for closing.

2 Q. Kaitlyn, do you remember any sort of
3 written policies or handbooks being shared with you
4 when you applied -- excuse me -- when you accepted
5 employment at Two Guys?

6 A. No.

7 Q. Did you receive any written promise of
8 continued employment while you were at Two Guys?

9 A. Not that I can remember.

10 Q. Did you sign any sort of contract, as best
11 you can recall, concerning the terms and conditions
12 of your employment at Two Guys?

13 A. Not that I can remember.

14 Q. How long were you at Two Guys when the
15 subject of you possibly taking on tax preparer
16 responsibilities came up?

17 A. I don't think long. Maybe two to three
18 weeks.

19 Q. Was that something that you expressed
20 interest in yourself?

21 A. Yes.

22 Q. And why was that?

23 A. It would offer more money.

24 Q. And what sort of pay increase did you

1 understand you would be receiving?

2 A. From what I was told by other preparers,
3 there was an hourly rate difference as well as a
4 commission.

5 Q. And explain to me what you understand that
6 to be.

7 A. I'm not sure of either, to be honest. It
8 was never expressed what the difference in hourly pay
9 and the difference or the actual commissions off of
10 each one would be. From what I understand, it was --
11 a portion of the fee that was charged to the customer
12 would have been a portion of your commission.

13 Q. Okay. But in terms of an hourly, because
14 that's kind of set in stone, if -- I know you're
15 working 40 hours in a position that pays \$10 an hour
16 and you're going to be moving to a position that pays
17 more at 40 hours. You know, that's kind of set in
18 stone. Your commissions may not be. I'm just
19 signposting that to see if you can express to me your
20 understanding as to -- I think you're making \$12 to
21 start, correct?

22 A. Yes.

23 Q. And did you understand as a tax preparer,
24 you might be making 15 or more dollars per hour or

1 something more or less than that?

2 A. I was basing it off of what Ariel told me
3 she was making. But I also knew she was a manager,
4 so I knew there was probably a differential there
5 too, so I honestly did not know.

6 MR. HERSHBERGER: Did we get this down on
7 the record about she doesn't have any documents
8 responsive to the duces tecum or anything to
9 supplement her discovery, does she, Trisha?

10 MS. BREEDLOVE: Not at this time, now that
11 you ask.

12 MR. HERSHBERGER: I'll do it for kicks and
13 giggles.

14 This is A.

15 - - -

16 And, thereupon, Defendant's Exhibit A was
17 marked for purposes of identification.

18 - - -

19 BY MR. HERSHBERGER:

20 Q. Kaitlyn, I'm handing you what's been
21 marked Exhibit A to your deposition. This is the
22 notice I sent. So that's why we're here today, in
23 addition to the fact that your counsel and I mutually
24 scheduled this time and time tomorrow to talk to the

1 witnesses and the parties. I'm going to turn your
2 attention to Page 3. And I know in conjunction with
3 discovery responses that you submitted in this case,
4 I got a whole bunch of tax documentation, tax forms.
5 I think there might have been like a 2019, maybe 2020
6 return. And then subsequently that was supplemented
7 with -- I got a copy of the EEO charge. And all
8 that's been provided to me.

9 So I think we've covered this, but I just
10 want to make sure. So I'm going to ask with regard
11 to No. 1, I think we've covered this this morning,
12 that you haven't sought any sort of treatment for the
13 strain that you're claiming resulted from your
14 termination, correct?

15 A. No professional -- I'm confused.

16 Q. And what's confusing?

17 A. Can you restate your question?

18 Q. Sure. And you may have been reading, so
19 that's okay. If you get distracted, just let me
20 know.

21 We covered this morning that you have not
22 received any sort of professional treatment for any
23 sort of stress, strain, anxiety, any sort of medical
24 treatment or counseling of any sort, fair?

1 A. Correct.

2 Q. So it doesn't sound like there would be
3 any documents of that treatment. So that kind of
4 addresses item No. 1 on Page 3 in front of you, fair?

5 A. Yes.

6 Q. The documents that you provided to the
7 EEOC or the OCRC regarding the allegations made in
8 the complaint, your counsel sent to me the charge.
9 We'll get to that in a little bit. Are you aware of
10 any other documents that you sent to the EEO in
11 connection with your charge or your complaint other
12 than the charge itself?

13 A. No.

14 Q. So no statements, tape recordings, texts,
15 fax, anything like that, correct?

16 A. No.

17 Q. Am I right?

18 A. Yes.

19 Q. And it is the case, whether you sent it to
20 the EEO or not, that you don't have any tape recorded
21 statements of anyone, fair?

22 A. Correct.

23 Q. Have you, yourself obtained any written
24 statements from any witness?

1 MS. BREEDLOVE: Objection.

2 You can answer.

3 A. No.

4 Q. I think there was some screenshots. And I
5 stand corrected. I think there's some screenshots
6 that you took of some pay advice. It was probably a
7 screenshot of a computer, like literally maybe from
8 your phone, taking a shot of a computer, showing pay
9 advice from the time that you were at Two Guys. Do
10 you remember taking at all?

11 A. No.

12 Q. Did you have remote access or online
13 access to the pay advice, the payroll information for
14 the hours that you worked at Two Guys?

15 A. Do I currently or did I then?

16 Q. Did you?

17 A. I don't remember. But I think there was a
18 portal I could log into.

19 Q. Have you tried that portal recently? It
20 would surprise me if you could get into it.

21 A. No.

22 Q. Did you maintain any personal notes or
23 diaries concerning what you were going through at the
24 time of your termination?

1 A. No.

2 Q. Were you ever given any sort of document
3 indicating the reasons or grounds for your discharge?

4 A. No.

5 Q. I believe you received an employment
6 compensation for a period of time while you were off
7 work after your separation, fair?

8 A. No.

9 MS. BREEDLOVE: Objection.

10 BY MR. HERSHBERGER:

11 Q. Is it your statement that as you're
12 contending you received no unemployment compensation?

13 MS. BREEDLOVE: Objection.

14 You can answer.

15 A. That's correct. I did not.

16 Q. Do you remember receiving any unemployment
17 compensation in 2021?

18 A. I don't remember.

19 - - -

20 And, thereupon, Defendant's Exhibit B was
21 marked for purposes of identification.

22 - - -

23 BY MR. HERSHBERGER:

24 Q. Handing you what's been marked as

1 Exhibit B, Kaitlyn. Can you identify that as the
2 charge of discrimination that you caused to be filed
3 with the EEOC?

4 A. Yes.

5 Q. Did you personally prepare this?

6 A. No.

7 Q. Did you review it before it was sent to
8 the EEO?

9 A. Yes.

10 Q. And is that -- There's a doc signature --
11 or a DocuSign down at the bottom left-hand corner of
12 Page 1 dated 7/15/2021. Did you direct someone or
13 did you personally indicate that an electronic
14 signature would be appropriate for this document?

15 A. I believe I DocuSigned it.

16 Q. So is this something that you saw on,
17 like, a portal, and then it asked you to DocuSign it,
18 and you did, and it was submitted?

19 A. Correct.

20 Q. You indicated on the front page of this
21 Exhibit B of this EEOC charge that you were
22 interested in mediation if the respondent was also
23 interested. And I know that this was dated July 15,
24 2021. And then if we turn to the second to last

1 page, it looks like you got a right to sue letter
2 dated July 19, 2021, which is four days later. Do
3 you have any understanding as to why the right to sue
4 letter issued so quickly after your charge?

5 A. I would assume the office was just
6 handling their due diligence in getting it done.

7 Q. The office being the EEO?

8 A. Yes.

9 Q. And the reason I'm asking this, Kaitlyn,
10 is if you look at the right to sue letter, the
11 notice, two boxes are checkmarked; and one says it's
12 less than 180 days past since the filing of the
13 charge, but I -- and that presumably is Dana R.
14 Hutter or someone on his or her behalf, has
15 determined it's unlikely that the EEOC will be able
16 to complete its administrative process within 180
17 days from the filing of this charge. There's also a
18 checkmark or a box checked that says the EEOC is
19 terminating its processing of this charge. Did you
20 direct the EEOC to terminate its processing of the
21 charge?

22 MS. BREEDLOVE: Objection.

23 Answer if you know.

24 A. No.

1 Q. And all these questions are, you know, if
2 you know. If you don't know, that's a perfectly
3 appropriate response. I'm not trying to ask you to
4 guess. I'm just asking what information you had. So
5 fair enough.

6 Turning to the front -- the face page on
7 Exhibit B. You understood when you submitted this
8 that this was, you know, something that was under the
9 penalty of perjury?

10 A. Correct.

11 Q. You indicated at the end of the second
12 paragraph under the particulars, kind of in the
13 middle of the page, the last two sentences end with
14 the following quote: I later learned Joy alleged
15 that I refused work at the time of my termination.
16 Joy gave no reason and just said I was being let go.

17 At the time, in July -- mid July of 2021,
18 did you have access to your texts and text exchanges
19 with Joy on the date up to and including your
20 termination?

21 A. Did I on 7/15 have access to those text
22 messages?

23 Q. Correct.

24 A. No.

1 Q. Why is that?

2 A. I actually broke the phone that had them
3 in it, so I had to get them replaced.

4 Q. What were the circumstances in which that
5 phone broke?

6 A. I dropped it into a pond fishing.

7 Q. And prior to that point -- Well, it took,
8 it looks like, about five months for your concerns to
9 get to the form that -- that resulted in a charge
10 being filed. And during those five months, did you
11 do anything to preserve what information you did have
12 on your phone that reflects the circumstances
13 surrounding your termination?

14 MS. BREEDLOVE: Objection.

15 You can answer.

16 A. I preserved it until an accident happened.

17 Q. And what did you do to preserve it?

18 A. I locked the text messages into my phone
19 so that it wouldn't delete. They kept them.

20 Q. Were they stored to the Cloud?

21 A. No.

22 Q. Were they printed out at all?

23 A. No.

24 Q. And when did the phone go into the pond?

1 A. I can't remember the specific date. But
2 it was probably about a month after my termination.

3 Q. So sometime in early March or mid March?

4 A. About mid March, yeah.

5 Q. It is the case -- and I think as you
6 stated this this morning -- that you weren't married
7 until February 22 of this year?

8 A. Correct.

9 Q. Were you engaged during your employment at
10 Two Guys?

11 A. No.

12 Q. The line in Exhibit B that says that you
13 are an openly homosexual woman, and then you used the
14 term "your supervisor" to describe Joy Caudill,
15 learning that you are a lesbian when your wife
16 brought you lunch one day at work. I want to focus
17 kind of on that. First of all, why do you say that
18 Joy Caudill was your supervisor?

19 A. Because she was once I went to
20 Reynoldsburg.

21 Q. And is it your testimony that she had no
22 supervisory or management responsibilities over the
23 receptionist position while you were at either
24 Lincoln Village or West Gate?

1 A. That was my understanding, yes.

2 Q. And is it possible that your understanding
3 is incorrect or incomplete?

4 A. Yes.

5 Q. The reference to lunch being brought to
6 you one day at work is not date specific, so I want
7 to ask. As best as you can recall, Kaitlyn, as you
8 sit here today, what day or approximate date was this
9 that someone brought you lunch at work.

10 A. It was either February 8 or 9.

11 Q. Which location were you working at that
12 day?

13 A. Reynoldsburg.

14 Q. And this would have been the one day that
15 you were there shadowing?

16 A. Yes.

17 Q. So on that day, was there a receptionist
18 at the Reynoldsburg store when you were there that
19 day?

20 A. Yes.

21 Q. So on that date that you shadowed, it
22 would have been you, Joy Caudill, a receptionist and
23 this 70-year-old gentleman that you were shadowing in
24 the store?

1 A. Correct.

2 Q. Was there anyone else that you can recall?

3 A. There was not.

4 Q. Tell me, as best you can recall, about
5 this exchange where you were brought your lunch at
6 work while you were at Reynoldsburg in February of
7 2021.

8 A. What about it?

9 Q. What happened when -- I'm assuming this is
10 Shaniqua that brought you lunch?

11 A. Uh-huh.

12 Q. Is that a yes?

13 A. Yes.

14 Q. She brought your lunch. She gave it to
15 you. And how is it that the subject of you being a
16 lesbian came up or the fact that you were a lesbian
17 was discovered?

18 A. Well, I couldn't tell you when she did. I
19 don't have her understanding of it.

20 Q. Well, you said that Joy Caudill learned
21 that you were a lesbian. And you said that she
22 learned that you were a lesbian when someone brought
23 you lunch one day at work.

24 A. Uh-huh.

1 Q. And we've testified that that was the day
2 that you were at Reynoldsburg --

3 A. Uh-huh.

4 Q. -- when Joy and the gentleman that you
5 were shadowing and a receptionist were all there. So
6 is this some sort of temporal thing, or was there
7 actually an event that occurred inside the store in
8 Reynoldsburg?

9 A. After my lunch got dropped off, she
10 inquired on who it was. I answered. I mean, that's
11 the extent of it I guess. I don't --

12 Q. Okay. And that might help explain things.
13 What was the substance of your response when Joy
14 Caudill asked, "Who is that bringing you your lunch"?

15 A. My spouse.

16 Q. And what was Joy's response to that, if
17 anything?

18 A. I don't think there was a response.

19 Q. Did she express surprise, concern? Did
20 she say, "Oh"? I'm just trying to figure out if
21 there's anything that you can remember as you sit
22 here today.

23 A. I do not remember.

24 Q. After Shaniqua brought you your lunch, did

1 she stay around?

2 A. No.

3 Q. Was Shaniqua's name brought up by Joy the
4 rest of that day?

5 A. Not that I can recall. I think she may
6 have inquired if it was the same person who was doing
7 the tax school.

8 Q. Do you have any reason to believe that the
9 first time that Joy Caudill saw Shaniqua was this day
10 in Reynoldsburg that we've been discussing?

11 A. No. She had, like I said, been going
12 through the tax school as well and had been in
13 contact with her privately on her own accord for
14 that.

15 Q. And how was -- Has Shaniqua shared with
16 you her interactions with Joy?

17 A. Not very well. She didn't end up getting
18 hired because Joy stopped responding to her text
19 messages. So --

20 Q. And which text messages were these? At
21 least temporally, were these before or after your
22 termination?

23 A. Before.

24 Q. And have you seen those text messages?

1 A. Yeah.

2 Q. Are they still on Shaniqua's phone as far
3 as you know?

4 A. No. She had an Android at the time. They
5 cycle out every 30 days with the text messages.

6 Q. Whether they cycle out or not, did
7 Shaniqua ever download or print off or share the
8 substance of those text messages with you or anyone,
9 to the best of your knowledge?

10 A. I saw them, but I don't know if she has
11 downloaded them or shared them with somebody else.

12 Q. Shaniqua knew that you were going to be
13 bringing this charge, didn't she?

14 MS. BREEDLOVE: Objection.

15 You can answer if you know.

16 A. No. She wouldn't because I didn't make
17 that decision until July.

18 Q. You didn't share with Shaniqua, your now
19 spouse, that you were going to be filing a charge
20 with the EEOC over the termination of your employment
21 at Two Guys?

22 MS. BREEDLOVE: Objection.

23 You can answer.

24 A. No.

1 Q. Why not?

2 MS. BREEDLOVE: Objection.

3 A. Obviously, because until July I hadn't
4 made that decision.

5 Q. But once you did file, I mean, it's out
6 there, right? I mean, what was to prevent you from
7 bringing this to her attention, "Hey, I'm filing a
8 charge. I think I was wrongfully terminated"?

9 A. If we're talking about in July, then, yes.

10 Q. Shaniqua was aware that you had concerns
11 about the circumstances surrounding your termination
12 from Two Guys prior to July, didn't she?

13 A. Yes.

14 Q. In fact, I'm sure you shared with her that
15 day that you were terminated that you had concerns
16 and that you felt that your firing was unjust?

17 MS. BREEDLOVE: Objection.

18 BY MR. HERSHBERGER:

19 Q. Fair?

20 MS. BREEDLOVE: You can answer.

21 A. Yes.

22 Q. As best as you can recall, what did the
23 texts between Shaniqua and Joy say, if anything?

24 A. Shaniqua had notified Joy that she

1 completed her tax school. She then notified her -- I
2 think she asked her what was the passing grade after
3 that and then also inquired on when she could start.

4 Q. And do you know when any of those texts
5 were sent in relationship to your termination at Two
6 Guys?

7 A. No. I'm not aware of the time frames that
8 they were sent.

9 Q. What is your pay today, either your salary
10 or hourly, at your present position as a property
11 manager?

12 A. Salaried at 55,000 a year.

13 Q. Have you received any sort of performance
14 evaluation or probationary review, if you will, of
15 how you're doing?

16 A. No.

17 Q. Do you have an understanding as to whether
18 you'll ever be in window for such a thing, on either
19 a six-month or a yearly basis?

20 A. At a year mark.

21 Q. Which for you will be in July?

22 A. August.

23 Q. Excuse me. I want to turn back to a topic
24 and finish this out, Kaitlyn. We were talking about

1 Joy learning that you were a lesbian when lunch was
2 brought to you at the Reynoldsburg store. Do you
3 recall -- Strike that.

4 Has anyone -- Strike that.

5 Has Shaniqua shared with you any
6 conversations that she had with Joy Caudill after
7 your termination?

8 A. Yes.

9 Q. Okay. And what has she shared with you
10 was discussed?

11 A. The position that she was seeking.

12 Q. Anything else?

13 A. No.

14 Q. So she didn't inquire on your behalf about
15 the circumstances surrounding your termination, fair?

16 A. No, she did not.

17 Q. But at the time that she would have been
18 talking with Joy, it was after your termination; and
19 she was aware of your termination, she being
20 Shaniqua --

21 MS. BREEDLOVE: Objection.

22 BY MR. HERSHBERGER:

23 Q. -- because you had told her?

24 MS. BREEDLOVE: Objection.

1 A. No.

2 Q. Let me rephrase my question. At the time
3 that Shaniqua spoke with Joy after your termination,
4 would you have informed her about your termination?

5 MS. BREEDLOVE: Objection.

6 A. I do not think they spoke after my
7 termination.

8 Q. Okay.

9 A. I'm not aware of it.

10 Q. And that was -- That's a little bit
11 different than what you said earlier, and that's
12 fair. I want to make sure that we have a good
13 understanding.

14 So it's your testimony that you don't
15 believe Shaniqua spoke with Joy after you were
16 terminated, fair?

17 A. Correct.

18 Q. Fair?

19 A. Yes.

20 Q. Are you aware whether Shaniqua tried reach
21 out to Joy in any regard after your termination?

22 A. I'm not aware, no.

23 Q. And is it the case that your termination
24 happened within a day or two after you being at the

1 Reynoldsburg store?

2 A. Yes.

3 Q. What do you recall Joy indicating to you
4 with regards to your concerns about the rounding
5 incident? Did she indicate that she was going to
6 take it up with the gentleman that you were
7 shadowing?

8 A. No, she did not.

9 Q. Did she indicate that she was going to
10 take any action?

11 A. No, she did not.

12 Q. Did you ask her whether she was going to
13 take any action?

14 A. Yes, I did.

15 Q. And what did she tell you?

16 A. I do not recall.

17 Q. Had you reported the rounding incident to
18 anyone other than Joy?

19 A. No. There was nobody else to report it
20 to.

21 Q. Would Tony Marucco have been an
22 appropriate person to bring that to the attention of?

23 A. In the situation, yes; but the chain of
24 command would state that I go to Joy.

1 Q. Okay. Well, who, in your understanding,
2 is in the chain of command above Joy?

3 A. Tony and Mary I believe her name was.

4 Q. This Dave person that you had mentioned
5 this morning, is he a manager at the Lincoln Village
6 store or the West Gate store?

7 A. It was my understanding that he was the
8 manager over West Gate.

9 Q. Prior to your shadowing day at
10 Reynoldsburg, how did you and Joy get along? Was it
11 a professional relationship?

12 A. Yes.

13 Q. Any concerns that you had about her
14 leadership or management style?

15 A. I didn't really work with her much, so I
16 would say no.

17 Q. Had you had a chance to observe Joy
18 terminate anyone's employment?

19 A. No.

20 Q. Had you had a chance to observe Joy hiring
21 anybody else?

22 A. No.

23 Q. Before you were placed in the Reynoldsburg
24 store to be a tax preparer, did you train your

1 replacement receptionist at West Gate?

2 A. Yes.

3 Q. Tell me about that. How did that happen?

4 A. In terms of?

5 Q. The facts that you can recall about how it
6 is that you came to train your replacement
7 receptionist at West Gate?

8 A. I mean, she just showed up, and that was
9 expected of me.

10 Q. And who set those expectations?

11 A. In a sense of what?

12 Q. In a sense of what you were just talking
13 about. You used the words, "It was expected of me."
14 I'm not trying to argue with you. I'm just using
15 your words. So those expectations had to be set.

16 A. Well, it was a -- You know, the
17 expectation that is -- There's an expectation that I
18 don't sit and stare at a corner while I'm at work.
19 So if somebody shows up for a receptionist position
20 and you're a receptionist, it's implied that you
21 help.

22 I don't think that there was anybody who
23 specifically said, "Train this person." However, I'm
24 sitting in their seat, using their computer while I

1 do my work; so it's implied that they're going to sit
2 behind me and ask me questions, so that's what
3 happened.

4 Q. Okay. Let's back up and explore this
5 maybe a little bit -- step or two earlier.

6 Do you remember the name of the person
7 that you trained to be your replacement as a
8 receptionist at West Gate?

9 A. No.

10 Q. Was it a male or female?

11 A. It was a female.

12 Q. Did that person's presence at West Gate
13 surprise you the day that she showed up?

14 A. Yes.

15 Q. And why is that?

16 A. I was unaware that they were hiring for
17 another receptionist.

18 Q. Had it been explained to you that there
19 was an expectation that the company would be moving
20 you to Reynoldsburg?

21 A. No.

22 Q. So you hadn't been looking to move closer
23 to the Reynoldsburg store or anything like that?

24 A. No.

1 Q. Were you in the process of moving
2 residences during your employment at Two Guys?

3 A. Yes.

4 Q. And where did you move from?

5 A. What do you mean?

6 Q. Where -- Like, what address did you
7 move -- What address were you living at when you
8 began at Two Guys?

9 A. 7005 Westfall Road.

10 Q. And that's in Lancaster?

11 A. Uh-huh.

12 Q. Yes?

13 A. Yes.

14 Q. And where did you move to? Where was the
15 next place you moved to?

16 A. I believe it was 806 Harrisburg Pike.

17 Q. And which end of town is that here in
18 Columbus?

19 A. The west side of Columbus.

20 Q. Is it closer to West Gate?

21 A. Yes.

22 Q. Did you have instances at -- or during
23 your employment at Two Guys where you had
24 weather-related events that caused you to be late to

1 work or miss work?

2 A. I can't recall.

3 Q. Did you have instances when you were
4 employed at Two Guys where you needed to cut out of
5 work early to attend to a funeral or a sick friend or
6 an event?

7 A. Yes. I had one incident where I needed to
8 leave early. I had lost a family friend.

9 Q. And was Two Guys accommodating in letting
10 you out of work for that?

11 A. I don't know about accommodating.

12 Q. Well, accommodating would be letting you
13 take the time off and not firing you. That would be
14 one level of accommodation I suppose.

15 A. I don't feel that's accommodating, but
16 sure. That happened.

17 Q. Well, you were in your first, you know, 30
18 or 60 days, correct, by the time this event that
19 you're talking about happened where you had to miss
20 work --

21 A. Yes.

22 Q. -- to attend a friend -- I mean, you
23 understood that there was no policy saying that you
24 were going to get paid time off or even have

1 bereavement days as far as you were aware, fair?

2 A. I don't know. I wasn't aware of the
3 attendance.

4 Q. Well, it's a reasonable expectation of
5 every employer, is it not, Kaitlyn, because you've
6 managed people, that people show up to work when
7 they're scheduled and on time and leave on time?

8 A. I'm also a human and have a heart and
9 understand that when people lose people, they need
10 time off.

11 Q. Let's signpost this. I'm asking you in
12 your experience as a manager. Okay.

13 A. That is my experience as a manager. I
14 treat my employees like humans.

15 Q. We're talking over one another. You're
16 not letting me ask my question. So let me ask this
17 because I want to be really clear about this, and I
18 want you to understand the question.

19 You have experience as a manager for
20 employers who have a reasonable expectation that
21 their employees show up to work on time and work
22 their shift as best as they can, fair?

23 A. Yes.

24 MR. HERSHBERGER: Let's go to whatever

1 this is now.

2 - - -

3 And, thereupon Defendant's Exhibit D was
4 marked for purposes of identification.

5 - - -

6 BY MR. HERSHBERGER:

7 Q. Kaitlyn, I'm handing you what's been
8 marked Exhibit D to your deposition. Have you seen
9 this document before?

10 A. Yes.

11 Q. Okay. Do you recognize it as a string of
12 text messages between you on the one hand and Joy
13 Caudill on the other?

14 A. Yes.

15 Q. Do you think that there's anything in this
16 string that's been left out, omitted, not captured?

17 A. There are a few places where my text
18 messages end up at the bottom and seem to possibly
19 have been cut off.

20 Q. I want to go through this with you.

21 Page 1, this is the first text, and that's January
22 12, in the evening. The words: Good evening. Just
23 heard of the good news of the switch. Do I have
24 Harrisburg now, is that your text?

1 A. Yes.

2 Q. Is the Harrisburg store -- I mean, you
3 have a West Gate store. You have Lincoln Village.
4 Is Harrisburg its own store as well?

5 A. Yes.

6 Q. Had you expressed interest in taking on a
7 receptionist position at Harrisburg?

8 A. Yes.

9 Q. So prior to this June -- or this January
10 12 text that we're discussing, you were working at
11 West Gate?

12 A. Yes.

13 Q. Joy responded to that text, and that's
14 kind of the bolded section there in dark colors with
15 the white lettering, fair?

16 A. Yes.

17 Q. The next page starts with, if I understand
18 this correctly, Joy saying: Did you drive by at all
19 today?

20 And the response: I did at lunch.

21 Do you have any context to that exchange,
22 Kaitlyn?

23 A. That is referring to the West Gate
24 location office.

1 Q. Let's turn the page then. And it looks
2 like we're still on January 12. So if I go from the
3 previous page with you saying: Sounds great. See
4 you then. Hopefully the groceries made it, I'm
5 assuming that's some reference to your groceries or
6 maybe Joy is sitting in a car or something like that.

7 A. Joy's son was having a hard time getting
8 the groceries home on that day.

9 Q. And if you turn the page, Joy responds:
10 They did. And I got several rude comments that I
11 expected. Ha.

12 A. Yes.

13 Q. January 13 at 9:38 a.m., it just says:
14 1:45 E. I don't know what that means. But it looks
15 like it was a text from you. Do you have any context
16 or explanation as to what that might signify,
17 Kaitlyn?

18 A. I honestly don't remember. I have no
19 clue.

20 Q. On January 14 at 4:26, you text to let her
21 know that you forgot to clock out. And maybe it was
22 just textese and something -- a verb got dropped.
23 But are you just letting her know that you forgot to
24 clock out at the end of your shift at West Gate?

1 A. Correct.

2 Q. And if you turn the page, it looks like
3 Joy wanted to know, "Hey, when did you leave" so that
4 she might be able to back it into the payroll system?

5 A. Correct.

6 Q. And you let her know that it was at
7 4:22-ish because it happens to comport with the text,
8 so you said: 4:22-ish. I wasn't too far behind. I
9 texted immediately. Is that what's captured here on
10 this page?

11 A. Yes.

12 Q. And I'm talking about a page that's really
13 tiny.

14 A. 59.

15 Q. But it's 59 at the bottom. Thank you.

16 And Joy says: Sounds good. Look forward
17 to seeing you tomorrow afternoon.

18 You say: No worries. And now we're onto
19 Page 60. You text her saying: I wanted to bring
20 something too you. I think "too" was supposed to be
21 T-O, but you wrote T-O-O. I don't want to make a big
22 deal. But the night receptionist brought her child
23 with her. I just had concerns so I thought I should
24 let you know.

1 And Joy said: Thank you.

2 Do you remember that text exchange and any
3 conversations surrounding it?

4 A. Yes.

5 Q. What was the concern there, Kaitlyn?

6 A. The night receptionist was very
7 unprofessional and disorganized. She would come in
8 either late with her child or with an issue. At any
9 rate, at this point, she had ended up bringing her
10 child with her I think a couple days in a row, and it
11 was just -- it was getting to a point where something
12 needed to be said.

13 Q. So as you're coming off, the night
14 receptionist is coming on, and you can see that she
15 has her child with her, fair?

16 A. Yes.

17 Q. And you wanted Joy to know about that?

18 A. Correct.

19 Q. Do you have a conversation as well as a
20 text?

21 A. I can't remember, but I believe so.

22 Q. And do you remember how that resolved or
23 what information was provided and what Joy said she
24 might do with your information?

1 A. I honestly don't remember.

2 Q. At the bottom of Page 60, it says:
3 January 15 at 7:46 p.m. You text: Just -- excuse
4 me -- Walked in. Just arrived. He's the guy from
5 earlier. He states he's waiting for you to give you
6 paperwork. He insists on waiting. I'm now turned
7 over on to Page 61, but it looks like this is all
8 part of one text.

9 And it doesn't look like there's any
10 response to this text Friday at 7:46 p.m. until
11 Saturday at 1:35 p.m. And it's kind of a non
12 sequitur because it looks like Joy is reaching out to
13 you and says: Kaitlyn, do you have a minute for me
14 to call?

15 Is my understanding, your understanding as
16 well, in terms of you put this out there, Joy didn't
17 respond to it by text at least until this text on
18 Saturday at 1:35?

19 A. Are you referring to the text that states:
20 He's waiting?

21 Q. Right. The conversation that starts on
22 the end of Page 60 and rolls over to Page 61.

23 A. Correct. But in all honesty, I feel like
24 we were working together and possibly the response

1 was in person from Joy.

2 Q. Do you have any reason to believe that Joy
3 handled your concerns inappropriately or incorrectly?

4 A. As it pertains to the text message?

5 Q. Yeah. As it pertains to this exchange
6 that begins on Page 60 and goes into 61 about this
7 gentleman arriving, someone from earlier, and he's
8 waiting?

9 A. I'm pretty sure I was just notifying her
10 by text because she was in her office, and he was
11 waiting for her in the lobby.

12 Q. Got it. And let's turn to this Saturday,
13 January 16 at the bottom part of the Page 61:
14 Kaitlyn, do you have a minute for a call?

15 And you respond: Yeah. I do. Do you
16 remember what that call was about at all?

17 A. I don't remember.

18 Q. I'm now on Page 62, and I'm signaling
19 Monday, January 18 at 4:12 p.m.: Is Amanda coming?
20 Who is Amanda?

21 A. The night receptionist.

22 Q. And she, being Joy, texts back: No. She
23 will not be in. Sorry.

24 A. I believe she was supposed to report at

1 4:00.

2 Q. As a result of Amanda not coming in, did
3 you work over that night? Do you recall?

4 A. I don't remember, honestly. I just know
5 nobody was notified.

6 Q. So what result, if any, or what
7 consequence was that for you? Did you end up having
8 to cover part of the shift or --

9 A. I know at 4:12, so twelve minutes past the
10 shift, I was still in the office because usually my
11 practice is not to leave the desk until she gets
12 there just because it leaves the office short
13 staffed. But I don't remember or recall if I did or
14 did not work that night.

15 Q. So I want to turn now to Page 63. And
16 you're writing on Tuesday, January 19 at 9:37 a.m.:
17 Can I write in these books? Are they mine to keep,
18 or do I need to return them?

19 And Joy responds: They are yours.

20 I'm going to put a hard stop right there.
21 Are we talking about now the tax preparer materials?

22 A. Yes. Yes.

23 Q. So had you begun those tax preparer
24 materials over the weekend? This is Tuesday, January

1 19. I'm wondering if you got these materials either
2 the previous Friday or Saturday.

3 A. I would say yes. It was within a few days
4 right before this, because I would have asked to
5 write in them pretty immediately.

6 Q. So by January 19, you had been working for
7 Two Guys about ten days?

8 A. Yeah.

9 Q. Maybe less?

10 A. Yeah. Yes.

11 Q. Then I'm going to pick up after my hard
12 stop in the middle of Page 63, Kaitlyn. Joy texts:
13 Was the lady sitting across from your desk yesterday
14 your friend that wants to do the rapid class as well?

15 And looks like you replied: Thank you. I
16 appreciate it. Yes. We did her taxes.

17 And that's the end of that page. And I
18 think she responds on the next page: Okay. Thank
19 you.

20 I want to ask you about that exchange.
21 What's your understanding as to what's being
22 discussed in this exchange with the lady sitting
23 across from your desk? Is she talking about Shaniqua
24 or someone else?

1 A. She's talking about Shaniqua.

2 Q. So at this point, Joy is aware that
3 Shaniqua is your friend and has expressed some
4 interest in doing the rapid tax preparer class just
5 as you're doing?

6 A. Yes.

7 Q. And you said: Yes. We did her taxes so
8 I'm assuming that Shaniqua was also a client of the
9 office as well?

10 A. Yes.

11 Q. We're on Page 64. Joy writes to you -- or
12 texts you: Hi, Kaitlyn. Please tell me how you're
13 doing on your test because I'm excited to get you
14 going and introduce you to the Reynoldsburg office.
15 Have a good day.

16 And your response is: I'll be finished
17 today. About 20 questions left. And then on the
18 following, it says: Who all will be at that office?
19 I hear Stacy isn't going to be there.

20 And you finish up that text: Also, can we
21 get my -- and it says P 10. And I think you actually
22 mean P-T-I-N?

23 A. Yes.

24 Q. So on January 22, Joy is telling you of an

1 expectation that she's going to have you go to the
2 Reynoldsburg office, fair?

3 A. Yes.

4 Q. She's asking how you're coming along with
5 the tax preparation materials, the modules or whatnot
6 of the online stuff?

7 A. Uh-huh.

8 Q. Yes?

9 A. Yes.

10 Q. It sounds like you have some written
11 materials that you're allowed to write in that
12 supplement that or complement the online stuff as
13 well?

14 A. Yes.

15 Q. Are there any other materials that are
16 provided to you to help you along with learning the
17 stuff online or what you're reading?

18 A. No.

19 Q. I'm now on 65, Kaitlyn. Who is Stacy?

20 A. That is a manager from the, I believe,
21 Harrisburg Pike location.

22 Q. Man or woman?

23 A. Lady.

24 Q. And did you get along with Stacy or not?

1 A. Yeah.

2 Q. And all I'm getting at, Kaitlyn, is this:
3 You're interested in whether Stacy is there or not.
4 How did that come to be?

5 A. So the dynamics of staff was kind of being
6 discussed between all of the staff throughout all of
7 the locations. Everybody was trying to figure out
8 who was getting moved and where everybody was going
9 to be. Discussions were had that some people were
10 going here, and then they were shuffling there. So I
11 think this was us trying to figure out who was going
12 to be where.

13 Q. And "us" being who?

14 A. Myself, Ariel and then Shaniqua as well
15 because she was interested in being a tax preparer.

16 Q. It so sounds like there's discussions at
17 least at the Ariel level and above in terms of
18 management, that there's a Reynoldsburg location that
19 has to be staffed, and some people are going to have
20 to be moved around. Was that your understanding back
21 then?

22 A. Yes.

23 Q. Was there another location in addition to
24 the Reynoldsburg that was acquired at that time?

1 A. Not that I was aware of.

2 Q. Were there other stores that needed
3 staffing because people had either left or were
4 moving around?

5 A. Yes.

6 Q. Tell me what your understanding was of
7 that.

8 A. I knew that they needed staff at almost
9 all of their locations.

10 Q. The PTIN, P-T-I-N, that's referenced in
11 the middle of Page 65 on Exhibit D is what allows you
12 to sign and file tax returns?

13 A. Correct.

14 Q. So did you have an understanding -- Strike
15 that.

16 Did you have an understanding back in mid
17 January that you were going to have to complete the
18 tax preparation coursework in order to get your PTIN?

19 A. Yes.

20 Q. Following up then on the end of Page 65,
21 Joy texts: Your PTIN needs to be applied for on the
22 IRS website. It's going to be \$13.95 and we will
23 reimburse you after you get it. Please send me the
24 confirmation PDF once done through email. Do you see

1 where I'm reading generally?

2 A. Yes.

3 Q. Did you apply for your PTIN?

4 A. Yes.

5 Q. Did you pay the 35.95?

6 A. Yes.

7 Q. Did you get reimbursed for it?

8 A. No.

9 Q. On January 22 at 1:07 p.m. -- we're now on
10 Page 66 on this exhibit -- you text that you're
11 finished with your coursework. So you're moving
12 along. It looks like you completed the coursework in
13 the span of approximately five days?

14 A. Yes.

15 Q. And was this while you were also doing
16 reception work?

17 A. Yes. As well as full-time school.

18 Q. And was it the case that you had resources
19 at your receptionist desk at West Gate or Lincoln
20 Village that you could do the coursework while you
21 were also doing your receptionist job?

22 A. We weren't supposed to, but generally they
23 encouraged us to do it in downtime.

24 Q. My question might be a little bit

1 different. Did you do it ever on the clock?

2 A. My coursework?

3 Q. Yes.

4 A. Yes.

5 Q. So in response to your text about you
6 being finished with your coursework, she says: Cool.
7 I'll get back with you on the next steps later today.

8 There's some discussion about the
9 reimbursement: Can Tony use the card here at this
10 location and Joy indicating they're not credit cards.
11 Are they talking about the reimbursement for your
12 PTIN?

13 A. Yes.

14 Q. Turn the page to 67. I think there's some
15 discussion about the timing of you being reimbursed
16 and you saying: Unfortunately, I'll have to wait
17 until I get paid to purchase. So it's a cash flow
18 problem for you --

19 A. Yes.

20 Q. -- to spend the 35 now. So you're waiting
21 for the paycheck, and then you'll be able to pay for
22 the PTIN, and then you'll get reimbursed.

23 Joy texts you on Friday, January 22. This
24 is towards the bottom of Page 67: You're not going

1 to need your PTIN yet anyway. There's going to be
2 more training online.

3 And you respond: Cool.

4 Do you see where I'm reading?

5 A. Yes.

6 Q. Okay. Next page is Page 68. She's
7 saying: Hey, can you come to Lincoln Village at 9:00
8 tomorrow? I want to talk about the other training
9 for tax prep. And then she says: Never mind. I
10 forgot I had to go to West Gate -- I think what's
11 that WG stands for --

12 A. Yes.

13 Q. -- in the morning.

14 And you're like: Hey, we'll get to it
15 when we get to it.

16 And if you turn to Page 69, Joy texts you:
17 Hopefully a new receptionist gets hired tomorrow.
18 After I train them to take over at West Gate, I'll be
19 having you come to Reynoldsburg to train with me.

20 And you say: I'm concerned about the
21 switch. I love my office. My environment makes up
22 much of the overall job enjoyment.

23 And I'm just going to stop right there.
24 This text exchange, Kaitlyn, the one that we're

1 talking about on Page 69, Exhibit D, did this result
2 in any sort of telephone conversation, further
3 conversation between you and Joy about her plans to
4 have a receptionist hired to take over your job at
5 West Gate so you can go over to Reynoldsburg to train
6 with Joy? Was the a telephone conversation about
7 that on or about January 24?

8 A. I don't know if it was a telephone
9 conversation, but I think we did have an in-person
10 conversation. I think a conversation was had.

11 Q. Would it have been on January 24, more
12 likely the following day?

13 A. I believe it was probably the following
14 day. I can't remember.

15 Q. Let's turn the page to Page 70 then. It
16 looks like this conversation that I put the hard stop
17 on a moment ago continued, and Joy expresses her
18 understanding. It says she had to get used -- had to
19 use the clients there to get her social interaction.
20 Let's talk about it tomorrow when I come down there.

21 And you say: Sounds great.

22 And that kind of comports with what you're
23 telling me, Kaitlyn. So it picks up on Monday,
24 January 25 with you texting Joy: Hey, Joy. Still

1 swinging by this morning.

2 And Joy responds: Sometime, yeah.

3 And then if we turn the page, we go from
4 9:05 a.m. on Monday to 6:38 on Monday. It looks like
5 the day got away from someone. But in any event, Joy
6 texts: I haven't forgotten about you. I had a
7 showing I forgot about. I'll text you when I get
8 home. Sorry I didn't text sooner.

9 Actually, I take that back. That's
10 actually -- That's your text, right?

11 A. No. Wait. Which one?

12 Q. On Page 71. My apologies.

13 A. No. That's her text.

14 Q. Okay. So it was Joy that had a showing
15 that she had forgotten about, and she'll text you
16 when she gets home?

17 A. Correct.

18 Q. Showing of her house?

19 A. I didn't inquire.

20 Q. Okay. Do you remember a conversation that
21 you had with Joy on the evening of Monday, January
22 25?

23 A. I don't think we talked on this day.

24 Q. Okay. Do you have any reason to believe

1 there's any gaps in this text exchange that have been
2 omitted?

3 A. It's possible. I don't know.

4 Q. Let's turn to Page 72. And we're now on
5 the morning of January 26 after leaving off the
6 evening of January 25. And Joy texts you: Hi,
7 Kaitlyn. Right now the Reynoldsburg office is only
8 open until 7:00 p.m. I will be there again until
9 7:00 tomorrow if you can swing by on your way home.
10 Sorry I didn't get your message yesterday until it
11 was too late to let you know.

12 And then you reply at 12:24: Okay. How
13 could I get a letter of the employment verification?
14 My question is: What is that in reference to,
15 Kaitlyn, a letter of the employment verification?

16 A. A letter that verifies my employment.

17 Q. To be given to who or for what purpose?

18 A. To myself for verification.

19 Q. Was this to be given to a landlord so that
20 you could move and they could ensure that you had
21 employment and were gainfully employed?

22 A. Yes.

23 Q. So would it be the case that around
24 January 26, you were in the process of moving from

1 Westfall in Lancaster over to Harrisburg?

2 A. Yes.

3 Q. Now we're on Page 73. It says: Okay. So
4 I want to go east. How do you feel about me
5 remaining reception until I get more comfortable in
6 prep. I can do both and jump to prep in between. I
7 expected to shadow here comfortably. Switching
8 teachers can throw a wrench in things. I want to try
9 and meet -- I think that's supposed to be "the"
10 instead of "tie" -- the company's needs with mine.
11 And that page ends, and that text ends.

12 Do you have any reason to believe that
13 there was more to that text than what's on Page 73,
14 Kaitlyn?

15 A. It could have been.

16 Q. Do you have any idea what could have been
17 left off?

18 A. No.

19 Q. Okay. So here you're expressing you want
20 to go east. What is east? Reynoldsburg?

21 A. Yes.

22 Q. So you're expressing you want to go to
23 Reynoldsburg, but you want to remain in reception
24 until you get more comfortable doing tax prep, fair?

1 A. Precisely.

2 Q. And you're thinking maybe you can do a
3 little bit of both, I'm assuming training and prep.
4 I'm trying to understand what you meant by, "I can do
5 both and jump to prep in between"?

6 A. Sure. So as I'm a receptionist, my
7 thought was that I could do reception and be able to
8 then in between fulfilling my job duties watch
9 preparation of taxes as a person doing them was
10 literally sitting at a desk behind me. So it was
11 easy for me to turn around and watch prep as I still
12 maintained my job duties.

13 Q. Okay. The end of that paragraph on Page
14 37, that first paragraph says: Switching teachers
15 can throw a wrench in things. Who was your teacher?
16 At West Gate I'm assuming.

17 A. It was Ariel and her sister. And then
18 there was -- I want to say there was a man that was
19 jumping around that was at that location as well, but
20 he wasn't there frequently. I don't remember. But
21 those two were the normal 9:00 to 5:00-ers with me.

22 Q. Did you feel -- Had you shadowed Ariel or
23 her sister?

24 A. I hadn't gotten the opportunity to yet.

1 They were kind of verbally teaching I guess. I
2 hadn't gotten to watch any taxes.

3 Q. And with all that, you did feel
4 comfortable, however, being with Ariel and her sister
5 doing the teaching or training or shadowing, fair?

6 A. Yes. I felt like they were knowledgeable.

7 Q. Did you have any concerns with Joy doing
8 the teaching or training or providing the shadowing?

9 A. No.

10 Q. Let's turn to Page 74. Joy texts you:
11 The shadowing must be done here because there are a
12 few things done differently. We are not going
13 to -- I'm assuming that's 100 percent -- change
14 everything they do since we are retaining two people.

15 Did you understand that when Joy sent
16 this, she was referencing, and you interpreted it as,
17 the Reynoldsburg store?

18 A. Yes.

19 Q. Okay. Your response is: No worries.
20 That's why I suggested reception transition. Is it
21 fair to say, given that text, Kaitlyn, that you knew
22 that the company was going to be replacing you as the
23 receptionist at West Gate ultimately?

24 A. No. That's a very far leap.

1 Q. And the reason I'm asking that is: If you
2 turn back to Page 69, on Sunday, January 24, you had
3 received a text from Joy indicating that she was
4 going to be training a new receptionist to take over
5 at West Gate and having you come to Reynoldsburg to
6 train with her. And then on Page 74 -- and we're now
7 two days later -- Joy is indicating that the
8 shadowing must be done at Reynoldsburg because
9 there's some things done differently, and they're
10 retaining two people.

11 A. Uh-huh.

12 Q. So at least by the date that this text was
13 sent at the top of Page 74, you weren't quite certain
14 that you were going to be replaced as a receptionist
15 at West Gate?

16 A. Correct.

17 Q. Let's pick up in the middle of Page 47 on
18 down. You write: No worries. That's why I
19 suggested reception transition.

20 And Joy texts you: There is a
21 receptionist here right now from the previous
22 company. And she's referencing Reynoldsburg,
23 correct?

24 A. Correct.

1 Q. And that's how you understood it at the
2 time, right?

3 A. Correct.

4 Q. Now we're on Page 75, and you text Joy:
5 Hey, I need to take off a tad early today to drop off
6 verification forms.

7 What verification forms are we talking
8 about? Is this the employment verification things
9 that they provided?

10 A. Yes.

11 Q. Ariel is staying until Amanda gets here.
12 Is that okay with you?

13 And she writes, "she" being Joy: That's
14 fine, Kaitlyn. Dave is coming down in a little bit
15 too so that Ariel can go home and rest that back
16 side. I'm assuming that's accounting and tax
17 preparer humor for the fact that people are working
18 long hours including people like yourself, fair?

19 A. Yes.

20 Q. Let's turn the page. We're on Page 76.
21 You write: Awesome. Thanks, Joy. Keep burning that
22 tax oil. And there's a couple of colloquies about
23 what makes the oil go and keep people going. Kind of
24 impertinent, so we'll just go to Page 77.

1 And you text Joy at 8:30 on January 28
2 that you're running a little bit behind, and you'll
3 be in as soon as possible. Was Joy okay with that?

4 A. There was no response.

5 Q. Okay. Do you remember what was causing
6 you to run late other than the fact that you had
7 overslept a little bit?

8 MS. BREEDLOVE: Objection.

9 You can answer.

10 A. No. I don't remember.

11 Q. And I'm saying because it's the end of
12 June. I didn't know if it was a weather-related
13 event or anything in addition to just the fact that
14 you overslept.

15 A. It could have been, but I don't recall.

16 Q. You text at 10:45 on January 29. This is
17 in the middle of Page 77. I think that's supposed to
18 be Christy, unless it's Charity.

19 A. Christy I think.

20 Q. Okay. Christy states she has another job
21 and cannot work this Tuesday or Wednesday. You write
22 Christy. Duh. Sorry.

23 Is Christy another receptionist?

24 A. I believe she was the one who ultimately

1 replaced myself at West Gate, but I can't remember.

2 Q. Joy responds: Just next week only. And

3 it looks like you responded at the top of Page 78:

4 Yes. I can cover it. She won't be trained by

5 Monday. She picks up okay but not too fast.

6 So are you referencing Christy picking up
7 the receptionist job?

8 A. Yeah. I was training her at the time.

9 Q. Okay. So you understood you were training
10 a replacement for you?

11 A. Yes.

12 Q. And we're now on January 29, correct?

13 A. Yes.

14 Q. Picking up in the middle of Page 78. Joy
15 says: No problem. Still want to train you as much
16 as you can today. And if she is ready to -- and if
17 she is ready, be at Reynoldsburg on Monday. We have
18 two other day receptionists to cover everything those
19 two days. If you can, I need you at Lincoln Village
20 this evening. Do you remember that exchange and the
21 circumstances surrounding it, Kaitlyn?

22 A. I don't remember the circumstances.

23 But --

24 Q. Did you have any problem fulfilling the

1 need to cover the receptionist at Lincoln Village
2 that evening?

3 A. I don't remember.

4 Q. Were you paid all the hourly wages that
5 you earned at Two Guys, to the best of your
6 understanding?

7 A. Are you asking me do they owe me money?

8 Q. I'm asking you: For the hours that you
9 worked, were you paid?

10 A. Yes.

11 Q. And I'm now on Page 79. And I think we
12 referenced this a little bit earlier, Kaitlyn, about
13 the balloon release for your friend Haylen. And
14 you're requesting an accommodation. And it kind of
15 goes over to Page 80 asking to get leave to prepare
16 for that event, even though it sounds like your
17 trainee/replacement person isn't there yet.

18 Contextually is that right, or have I missed
19 something about the context of this exchange on 79
20 and 80?

21 A. Correct. I was requesting to leave early,
22 as there was nothing pertinent left for me to do, and
23 the trainee had not shown up.

24 Q. Fair enough. If we turn to Page 81, this

1 is Joy's response. She says: Attendance is very
2 important to us, but she understands it's something
3 that -- this event is important to you. And you can
4 read the rest for yourself there, Kaitlyn.

5 My question is: And after this text that
6 Joy sent responding to your request for some time
7 off, did you have any telephone conversations with
8 Joy about your need to miss -- or to leave work a
9 little bit early to attend this event?

10 A. I don't remember.

11 Q. Okay. And did you interpret this text
12 that Joy sent on Page 81 as just saying, "Hey, you
13 know, attendance is important. We understand there's
14 going to be exceptions. Just let us know as far as
15 you can in advance so that we can get your shift
16 covered." Is that how you interpreted it back then
17 when you read this the first time?

18 A. Yes.

19 Q. Okay. Fair enough.

20 And, in fact, I just answered my own
21 question. My apologies. But if you turn to Page 82,
22 it looks like you understand. On February 1 -- we're
23 now in the middle of Page 82 -- you write: Meet out
24 east or Lincoln Village. She says: Lincoln

1 Village -- this is Joy -- that's where you will be
2 this week.

3 And you write: Okay.

4 So did you work reception at Lincoln
5 Village all of February 1 and February 2?

6 A. I don't remember, but I believe so.

7 Q. And if I turn to the bottom of Page 82, it
8 looks like there's a snow event because you're
9 referencing a level two, which I'm assuming is a
10 level two travel emergency --

11 A. Yes.

12 Q. -- about people probably shouldn't be on
13 the roads unless they have to.

14 If we turn to Page 83, Joy is indicating:
15 Hey, we're open. If you can't make it in, let her
16 know. She's going to be at West Gate. If you'd like
17 to make it in there, you're welcome to go to
18 Reynoldsburg and finish your training. Just let her
19 know. She'll have to let Mike know, fair?

20 A. Yes.

21 Q. Did you have any questions about what Joy
22 was -- you know, the information that Joy was giving
23 you on -- in this text on Page 83?

24 A. No.

1 Q. Let's move to 84. It looks like there's
2 still road stuff going on on February 1 and into
3 February 2., so I won't bore anyone with that. We're
4 onto Page 85.

5 You text Joy at 9:00 a.m. on February 3:
6 Sorry, Joy. Headed to you now. I know you told me.
7 I couldn't remember and just wanted you to be here
8 -- wanted to be here. See you soon.

9 Is this you just saying, "Hey, I'm running
10 a little bit late," or what Is going on that resulted
11 in you sending this text at 9:06 on February 3?

12 A. I don't remember.

13 Q. Okay. February 4: What's the passing
14 score on midterm? And if we turn to Page 86, it
15 looks like "70 I think" was Joy's response. Were you
16 talking about your own midterm?

17 A. No. At this point, I had passed that. I
18 was asking for Shaniqua, as she had never received a
19 response from Joy.

20 Q. Got it. We're on Page 87. That last
21 sentence says: I need to have you behind clients at
22 Reynoldsburg next week with me so that you will be
23 solo. So I think that's -- This is being sent on a
24 Friday, so it sounds to me like Joy is signaling to

1 you come the following Monday the expectation is
2 you're going to be at Reynoldsburg, fair?

3 A. Yes.

4 Q. Is that how you understood it at the time
5 it was sent?

6 A. What do you mean?

7 Q. That Joy was expecting you to be at
8 Reynoldsburg the following Monday?

9 A. Yes.

10 Q. Fair enough. We're onto Page 88. And in
11 response to the 7:42 text, you replied at 8:46 a.m.:
12 No problem. I'll get it done today. I'll make it in
13 this weekend to do the practice binder too so I have
14 the confidence I need. Did you actually go in to the
15 office that weekend?

16 A. I don't remember.

17 Q. Was it possible to do this practice binder
18 at home?

19 A. No. You needed the program to do it with
20 the binder. The binder is kind of like a fake, like,
21 return, and you use it to go through the system.

22 Q. Understand. About four hours later you
23 text Joy: Hey, the apartment complex left me a VM,
24 which I assume is voicemail. Apparently they can fit

1 me in at 3:00, I assume p.m., today. Videos are
2 almost done as well. It's a little bit disjointed in
3 terms of subject matters, but I think I understand
4 this.

5 So let me ask. The apartment complex left
6 me a voicemail. Apparently they can fit me in at
7 3:00 today is a reference to the apartment that you
8 were moving into on Harrisburg Pike, letting you know
9 they have a unit for show?

10 A. It was -- I had to be there by 3:00 to
11 sign for the unit.

12 Q. So you're actually signing the lease that
13 day at 3:00?

14 A. Uh-huh.

15 Q. Was that a yes?

16 A. Yes. Sorry.

17 Q. And then the reference to videos are
18 almost done as well is a reference to you finishing
19 up your video training for the tax prep course?

20 A. Yes. I believe there was some videos you
21 had to watch afterwards. I can't quite remember.
22 But I remember watching videos.

23 Q. Let's turn to Page 89. And you reply:

24 Okay. Hope this -- Joy replies: Okay. Hope this

1 will be the end, and you'll move in. Had there been
2 issues dealing with the landlord over there at
3 Harrisburg --

4 A. Yes.

5 Q. -- trying to get a lease in front of you?

6 A. Yeah. It was scheduling. They were never
7 available at a decent time for me.

8 Q. And probably pretty frustrating as
9 somebody who has been a property manager I assume.

10 A. Yes.

11 Q. You respond: Me too. It's been quite the
12 feat. I'll be so much closer too. Thanks, Joy.
13 Have a good day.

14 So I think we're now picking up at the end
15 of 89 on the next week. So we've gone the weekend,
16 and it's now Monday, February 8 at 7:32 a.m. Going
17 to put a signpost there, Kaitlyn.

18 Do you remember having any conversations
19 with Joy Caudill over the weekend of Friday, February
20 5; Saturday, February 6; Sunday, February 7 about
21 your assignments, your duties, what Two Guys'
22 expectations were going to be for you, where,
23 anything concerning work? Did you have a
24 conversation with Joy over that weekend?

1 A. Not that I remember.

2 Q. Monday at 7:32 Joy texts you: Hi,
3 Kaitlyn. My schedule this week is Monday and
4 Thursday at Lincoln Village and Tuesday, Wednesday
5 and Friday at Reynoldsburg. You can work where I am
6 if you'd like. Next week it's Reynoldsburg every
7 day.

8 Okay. And did you understand that that's
9 Joy setting your schedule for basically this week of
10 February 8 and then the following week of February
11 15?

12 A. Yes.

13 Q. If we turn the page to Page 90, your reply
14 apparently is: That works out. Be with you. And
15 then a little bit later on that Monday you say: I
16 keep failing this test. Was there a certain module
17 or part of the tax prep materials that you were
18 having challenges with?

19 A. Yeah. I think overall after you watch the
20 videos, you had a final test that I was having
21 trouble passing.

22 Q. But at least with respect to the schedule,
23 if we look at Page 89 and 90, you know, Joy is
24 telling you where she needs you and when. And you

1 respond: That works out. Be with you. And then
2 there's some concerns obviously with the test module
3 that we just talked about. And it looks like people
4 are still digging out from snow events, and it's
5 causing some concerns with your car.

6 A. Yes.

7 Q. We're on Page 91 now. Joy texts you:
8 Okay. I'm staying on the west side to keep an office
9 open. I need to finish your fusion test and shadow
10 Mike. Please do not spend a lot of time on your
11 phone, as you are being paid.

12 And your response is: Can I just do my
13 training from home?

14 Joy indicates: Not for pay. We don't
15 allow that.

16 Then I'm just going to stop right there.
17 I am assuming that this conversation, this text
18 exchange is Tuesday, February 9 because if I turn to
19 Page 92, it looks like there's still Tuesday,
20 February 9 texts on it. So do you remember this
21 exchange that's on Page 91, Kaitlyn?

22 A. Yes.

23 Q. Did you have any sort of telephone
24 conversation with Joy during this couple hours or

1 whatever that it took to exchange the texts that you
2 see on Page 91?

3 A. I don't remember.

4 Q. Do you know who Mike is that's being
5 referred to in Joy's first text on Page 91?

6 A. I think that was the previous owner of the
7 Reynoldsburg location.

8 Q. So this is this 70-some-year-old guy that
9 you shadowed?

10 A. I think so.

11 Q. Do you know, other than being an owner
12 of -- or the operator of the Reynoldsburg Liberty Tax
13 franchise before Two Guys took it over, what Mike's
14 background was in tax prep or any qualifications that
15 he had?

16 A. I was told that he was a preparer and an
17 owner at that location.

18 Q. Do you remember who told you that?

19 A. I believe Joy.

20 Q. Did Mike share anything with you during
21 your shadow day about his experience or his
22 qualifications?

23 A. Not that I can remember.

24 Q. Do you remember seeing any sort of plaques

1 or anything on the wall near Mike's desk?

2 A. No.

3 Q. Let's pick up on Page 91 because we're now
4 on February 9. You're asking can you do your
5 training from home. She's saying not for pay. We
6 don't allow that.

7 And your response is: Joy, I'm willing to
8 work Lincoln Village or West Gate. At this point,
9 that's it.

10 Why did you write that?

11 A. Why did I write what?

12 Q. Joy, I'm willing to work Lincoln Village
13 or West Gate. At this point, that's it.

14 A. Because that's how I felt.

15 Q. At this point, have you been to the
16 Reynoldsburg store at all?

17 A. I don't know. I don't think so. I'm not
18 sure.

19 Q. Turn to Page 92. Joy says: I just left
20 you a message. Please call me. And Tuesday at
21 1:53 p.m.: Kaitlyn, I need to let you know -- I need
22 you to let me know about your text. Are you
23 staying -- I think she's trying to say: Are you
24 saying you will not work at Reynoldsburg? Is that

1 how you interpreted that?

2 A. Yes.

3 Q. And the response is on Page 93: I think
4 we should sit down and discuss it. Yes. My concern
5 was the environment. I'm progressive, and I'm not
6 sure Reynoldsburg is a good fit. It would create
7 frustration in my position. I'm not willing to
8 shadow someone who is not doing this right.

9 Have I read that right?

10 A. Yes.

11 Q. Did you ever end up having a conversation
12 with Joy in or around the time that you sent this
13 text on Page 93?

14 A. No.

15 Q. Did you leave any voicemails for Joy?

16 A. I don't remember.

17 Q. Any other texts other than this one on
18 Page 93 connected with this?

19 A. I can't say for sure. I don't have the
20 original feed.

21 Q. Page 94 Joy texts you: I've tried to call
22 with no success. The position being offered to you
23 as a tax preparer at Reynoldsburg, please think about
24 whether you will accept or decline and send a

1 response to both me and Tony in writing by the end of
2 the day. I have back to back appointments today, so
3 I will need to know by 9:00. Thank you.

4 Did you respond by a -- with a phone call
5 at all?

6 A. I don't recall.

7 Q. If we turn the page to Page 95, you write:
8 I don't appreciate how you hired someone in my place
9 before I accepted a position, and you treat me as
10 though this is it, and this is all I have. I'll take
11 the position I was hired for because I was pushed out
12 due to the company's need -- and the company's needs
13 since I need to let you know in writing.

14 And I think this is the continuation,
15 Kaitlyn: I'll be reporting from my position as hired
16 tomorrow. Let me know in writing whether or not
17 you're letting me know you illegally replaced me or
18 not.

19 We're now on Page 97, and Joy writes: I
20 appreciate your thoughts. You were given the option
21 of tax preparer knowing full well it would be in
22 Reynoldsburg and then accepted the offer by
23 completing the rapid class and asking for the pay
24 raise. You no longer wish to be a tax preparer at

1 Reynoldsburg, so there is currently no other position
2 for you in our organization. I wish you the best of
3 luck. Thank you.

4 Did you have any sort of telephone call
5 with Mike -- or excuse me -- with Tony Marucco or Joy
6 or anyone else at Two Guys in response to receiving
7 and reading the text that's on Page 97 of Exhibit D?

8 A. I believe there was a phone conversation
9 between myself and Tony as well as myself and Joy.

10 Q. And did that happen in response to
11 receiving this text that's on Page 97?

12 A. It was in response to the text from Page
13 94.

14 Q. Okay. Did you tape that call?

15 A. No.

16 Q. Was there anyone in the room with you when
17 that you had conversation?

18 A. Shaniqua was at the time.

19 Q. Were you on speakerphone?

20 A. Yes.

21 Q. Why?

22 A. Because my phone can do it. There was no
23 specific reason.

24 Q. Was it the case that in your mind you

1 wanted to have witnesses to the conversation, and
2 that's why you were on speakerphone?

3 A. No. I think that my phone functions as
4 either a speaker or a non-speakerphone, so I used it.

5 Q. Well, Shaniqua can't hear your
6 conversation if you're not on a speakerphone.

7 A. That's not true. But it's neither here
8 nor there.

9 Q. Well, let's talk about the "hear" part of
10 that. It is the case that if you are on speakerphone
11 and Shaniqua is in the room, she can necessarily hear
12 it better than if she was standing right next to you,
13 fair?

14 A. At any rate, she was sitting next to me,
15 so she would have heard the conversation either way.

16 Q. And you wanted her to hear that
17 conversation?

18 A. There was no wanting her to hear it. I
19 was having a conversation.

20 Q. Did she insist on being there to hear the
21 conversation?

22 A. No.

23 Q. Okay. Did you let her know, "Hey, this is
24 a call from work. Stick around. I want you to hear

1 this"?

2 A. No. We were both in a moving car. I
3 don't think she could have exited the vehicle.

4 Q. Did Shaniqua tape the conversation?

5 A. No.

6 Q. If I read Page 97, it sounds like you've
7 been told it's Reynoldsburg or bust, fair?

8 A. Yeah.

9 Q. And on Page 98, your response to being
10 told it's Reynoldsburg or bust is: Don't twist my
11 words. I'll speak with Mary and Tony. Plenty of
12 receptionists are doing the rapid class as well as
13 everyone I've worked with -- Let me start over.

14 Don't twist my words. I'll speak with
15 Mary and Tony. Plenty of receptionists are doing the
16 rapid class as well as everyone I worked with felt
17 just as I. The company's collective left me no
18 choice. That's why the day I was asked to train my
19 replacement, you asked what I was doing, as I was
20 replaced. I'm not entertaining this with you. I'll
21 be reporting for what I was hired for and reaching
22 out to HR. The raise was given me to me as a
23 receptionist before tax was brought up, but it was a
24 nice try. And in response --

1 A. Where are you reading?

2 Q. I'm reading at the end of Page 98 and on
3 the beginning of -- end of 99.

4 A. Can I see your page?

5 Q. Did I miss a page on yours? Did you go
6 from 98 to 99?

7 A. Yeah. But this doesn't make sense as a
8 conversation. I don't think this is what came after.

9 Q. It's actually a carryover. You're talking
10 about what's on 99?

11 A. Oh, is this starting here from here?

12 Q. Yeah.

13 A. From midway up here?

14 Q. It goes numerically. So it started on 98.

15 A. Okay. I see.

16 Q. And then it finishes on 99.

17 A. What was your question?

18 Q. The employer has the right to dictate
19 where the employee does the work, don't they?

20 A. I don't know what the law is for that.

21 Q. Well, let's assume that's the case.

22 A. I don't assume much. But --

23 Q. You should probably do this in this case
24 at least for purposes of this question.

1 MS. BREEDLOVE: Objection.

2 Don't assume anything.

3 BY MR. HERSHBERGER:

4 Q. If you decided that you wanted to work
5 someplace else and the employer was not accommodating
6 you, what are your options?

7 A. Could you repeat that?

8 Q. Sure. Let's say you were working at Pep
9 Boys at a certain location and you decide, you know,
10 "I'd really like to work somewhere else. I know
11 there's a Pep Boys store there. I need you to
12 transfer me."

13 Can the employer refuse to do that?

14 MS. BREEDLOVE: Objection.

15 A. Yes.

16 Q. If the employer has work for an employee
17 at a different location, isn't it okay for the
18 employer to tell the employee to do the work at that
19 location?

20 MS. BREEDLOVE: Objection.

21 A. No.

22 Q. In your estimation, that would be unfair?

23 A. It would be not agreed upon.

24 Q. Okay. And that was your concern, is that

1 they were breaching what you claimed to be an
2 agreement for you to work at West Gate?

3 A. The employment is an agreement.

4 Q. It is of a certain nature, and I would
5 never dispute that. But when it's employment
6 at-will, there's some consequences; and I won't bore
7 you with that. But my fundamental question is: The
8 concern that you're expressing here on Pages 94
9 through 99 is, "Hey, I feel that you kind of did a
10 bait and switch on me. You hired me as a
11 receptionist, and now you're telling me because I
12 took the tax preparer course, you know, you can put
13 me somewhere else." Is that a fair and accurate
14 argument that you were going to be making there?

15 MS. BREEDLOVE: Objection.

16 A. No. It's not.

17 Q. I mean, I've read what's written here. So
18 I'm trying to figure out what your concern actually
19 was other than what's actually written on these pages
20 because I've heard your testimony about, "I think
21 that they breached an agreement with me." Is there
22 something more?

23 A. I'm confused at what you're asking.

24 Q. Sure. You think it's unfair for Two Guys

1 to mandate that you work at the Reynoldsburg store as
2 a tax preparer, right?

3 A. I believe that the situation that lead to
4 that request was not okay.

5 Q. My question is this -- and I'll just
6 rephrase it again -- you felt it was unfair for Two
7 Guys to ask you to work at Reynoldsburg as a tax
8 preparer?

9 A. I don't feel like it's unfair for anybody
10 to ask a question, no.

11 Q. I'll use a different verb. Two Guys
12 directed you to work at the Reynoldsburg -- and to
13 report to the Reynoldsburg store, did they not?

14 A. Yes.

15 Q. And you refused to do that, didn't you?

16 A. No, I did not.

17 Q. Did you go to work at the Reynoldsburg
18 store?

19 A. Yes, I did.

20 Q. When?

21 A. February 8 or February 9.

22 Q. We just read the texts from February 8 and
23 February 9.

24 So let's go back and explore this again

1 contextually.

2 We started on Page 92. We are on February
3 9. And the text that's there from Joy is: Kaitlyn,
4 I need you to let me know about your text. Are you
5 saying you will not work at Reynoldsburg?

6 And your response on Page 93 is: I think
7 we should sit down and discuss it, yes.

8 And you expressed your concerns about the
9 environment, you being progressive, you not being
10 sure it's a good fit. You're thinking it's going to
11 create frustration in your position, you not being
12 willing to shadow someone who you think is not doing
13 it right. I've expressed all the reasons for you not
14 wanting to be at Reynoldsburg, right?

15 A. Some of them I mentioned at the very
16 beginning in the first sentence, that I feel like we
17 should sit down and discuss it. So not all of my
18 issues were addressed.

19 Q. Okay. Were there other issues that were
20 discussed with Tony and Joy when you had a call in
21 connection with this colloquy that goes from Pages 92
22 to 99 and 100?

23 A. I do not remember.

24 Q. Do you recall the substance of any

1 communication you had with Tony in response to these
2 text messages and the subjects that are being raised
3 and the concerns that you raised including those on
4 Page 93?

5 A. I do not recall the conversation with
6 Tony, no.

7 Q. Did you tell Tony about the rounding
8 incidents?

9 A. I don't think I had a conversation with
10 Tony about that incident.

11 Q. Okay.

12 A. But I don't remember.

13 Q. Did you have a conversation with Tony
14 about Joy learning that you were a lesbian?

15 A. I was discharged from the company after
16 that day. I had no conversations with anybody.

17 Q. So you had no communications with anybody
18 at Two Guys about Joy learning that you were a
19 lesbian?

20 A. I was discharged from the company.

21 Q. And thereafter you had no further
22 conversations with the company about either the
23 rounding incidents or the issue about Joy learning
24 that you were a lesbian?

1 A. Correct.

2 MR. HERSHBERGER: I'm going to talk with
3 her out in the hall.

4 (Recess taken.)

5 MR. HERSHBERGER: Back on the record.

6 I have no further questions. Kaitlyn, you
7 have the right to read your deposition transcript.
8 Is she going to assert that?

9 MS. BREEDLOVE: She'll read.

10 (Signature not waived.)

11 - - -

12 And, thereupon, the deposition was
13 concluded at approximately 2:57 p.m.

14 - - -

1 State of Ohio :
2 SS:
3 County of Franklin:

4 I, KAITLYN PORTER, do hereby certify that
5 I have read the foregoing transcript of my deposition
6 given on April 26, 2022; that together with the
7 correction page attached hereto noting changes in
8 form or substance, if any, it is true and correct.

9 _____
10 KAITLYN PORTER

11 I do hereby certify that the foregoing
12 transcript of the deposition of KAITLYN PORTER was
13 submitted to the witness for reading and signing;
14 that after she had stated to the undersigned Notary
15 Public that she had read and examined her deposition,
16 she signed the same in my presence on the
17 _____ day of _____, _____.

18 _____
19 _____
20 Notary Public

21 My commission expires _____

22 - - -
23
24

CERTIFICATE

State of Ohio :
SS:
County of Franklin:

I, Marilyn K. Martin, Notary Public in and
for the State of Ohio, duly commissioned and
qualified, certify that the within named witness was
by me duly sworn to testify to the whole truth in the
cause aforesaid; that the testimony was taken down by
me in stenotypy in the presence of said witness,
afterwards transcribed upon a computer; that the
foregoing is a true and correct transcript of the
testimony given by said witness taken at the time and
place in the foregoing caption specified.

I certify that I am not a relative,
employee, or attorney of any of the parties hereto,
or of any attorney or counsel employed by the
parties, or financially interested in the action.

IN WITNESS WHEREOF, I have set my hand and
affixed my seal of office at Columbus, Ohio, on this
24th day of June, 2022.



MARILYN K. MARTIN
Notary Public in and for the State of Ohio
and Registered Professional Reporter.

My Commission Expires October 16, 2026.